

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. PASCUAL SILVA, DEFENDANT AND APPELLEE.

G.R. No. L-15974. January 30, 1962

Ponente: PAREDES, J.

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PAREDES, J.:

This is an appeal interposed by the State against the order of dismissal of the Court of First Instance of Bulacan, in case entitled "The People of the Philippines vs. Pascual Silva".

On July 29, 1957, at Meycauayan, Bulacan, a "La Mallorca" passenger bus bearing Plate No. TPU-13006, 1957 Bataan, driven by Pascual Silva collided with another "La Mallorca" passenger bus (TPU-21836, 1957, Pampanga). As a result of the accident, Felix Lazaro died. Emilia Estrella and Francisco Sarmiento sustained serious physical injuries, while Policarpio Sarmiento, Eulalio Sarmiento and Dolores Gimeno suffered slight physical injuries.

Under date of October 25, 1957, an information charging Pascual Silva with Slight Physical Injuries thru Reckless Imprudence was presented with the Justice of the Peace Court of Meycauayan, Bulacan. After a trial on the merits was conducted, the accused Silva was acquitted in a decision dated November 20, 1958, on the following grounds: (1) prescription of the offense; (2) no positive identity as to which "La Mallorca" Bus caused the accident; and (3) the injuries suffered by Dolores Gimeno can not be the result of the negligent act of Pascual Silva.

On the same date the information was filed with the JP court (Oct. 25, 1957), other information charging Silva of Homicide with Serious Physical Injuries thru Reckless Imprudence was presented with the CFI of Bulacan. On April 20, 1959, counsel for Silva moved to quash the information (with the CFI), on the ground of double jeopardy, alleging that the acquittal in the JP case, which arose from the same act for which he stood charged before the CFI, constituted a bar for his further prosecution. The motion was denied on May 2, 1959. On May 22, 1959, however, Silva asked for a reconsideration of the denial, on two grounds: (1) The denial is not in consonance with the decisions of the Supreme Court; and (2) The order will serve to encourage drivers to commit graver offenses. The fiscal opposed the motion, claiming that slight physical injuries being only a light offense, cannot be complexed with homicide or serious physical injuries as provided for in Art. 48 of the Revised Penal Code.

On June 26, 1959, the lower court reconsidered its Order of May 2, 1959 and dismissed the case, holding:—

"* * * The court believes that the case falls squarely within the doctrine of double jeopardy enunciated in *People vs. Belga*, 100 Phil., 996; 53 Off. Gaz., (10) 3081. In the case cited, Ciriaco Belga and Jose Belga were charged in the Justice of the Peace Court of Malilipot, Albay, with the crime of physical injuries through reckless imprudence arising from a collision between the two automobile driven by them (Crim. Case No. 88). Without the aforesaid complaint having been dismissed or otherwise disposed of, two other criminal complaints were filed in the same justice of the peace court, in connection with the same collision one for

damage to property through reckless imprudence (Crim. Case No. 95) signed by the owner of one of the vehicles involved in the collision, and another for multiple physical injuries through reckless imprudence (Crim. Case No. 96) signed by the passengers injured in the accident. Both of these two complaints were filed against Jose Belga only. After trial, both defendants were acquitted of the charge against them in Crim. Case No. 88. Following his acquittal, Jose Belga moved to quash the complaint for multiple physical injuries through reckless imprudence filed against him by the injured passengers, contending that the case was just a duplication of the one filed by the Chief of Police wherein he had just been acquitted. The motion to quash was denied and after trial Jose Belga was convicted, whereupon he appealed to the Court of First Instance of Albay. In the meantime, the case for damage to property through reckless imprudence filed by one of the owners of the vehicles involved in the collision had been remanded to the Court of First Instance of Albay after Jose Belga had waived the second stage of the preliminary investigation. After such remand, the Provincial Fiscal filed in the Court of First Instance two informations against Jose Belga, one for physical injuries through reckless imprudence, and another for damage to property through reckless imprudence. Both cases were dismissed by the Court of First Instance, upon motion of the defendant Jose Belga who alleged double jeopardy in a motion to quash. On appeal by the Prov. Fiscal, the order of dismissal was affirmed by the Supreme Court in the following language:

"The question for determination is whether the acquittal off Jose Belga in the case filed by the chief of police constitutes a bar to his subsequent prosecution for multiple physical injuries and damage to property through reckless imprudence'.

In the case of *People vs. F. Diaz*, 94 Phil., 714 the accused was charged in the municipal court of Pasay City with reckless driving under sec. 52 of the Revised Motor Vehicle Law, for having driven an automobile in a 'fast and reckless manner * * * thereby causing an accident.' After the accused had pleaded not guilty the case was dismissed in that court 'for failure of the Government to prosecute'. But some time thereafter the city attorney filed an information in the Court of First Instance of Rizal, charging the same accused with damage to property thru reckless imprudence. The amount of the damage was alleged to be P249.50. Pleading double jeopardy, the accused filed a motion, and on appeal by the Government we affirmed the ruling. Among other things we there said through Mr. Justice Montemayor—

'The next question to determine is the relation between the first offense of violation of the Motor Vehicle Law prosecuted before the Pasay City Municipal Court and the offense of damage to property thru reckless imprudence charged in the Rizal Court of First Instance. One of the tests of double jeopardy is whether or not the second offense charged necessarily includes or is necessarily included in the offense charged in the former complaint or information (Rule 113, Sec. 9). Another test is whether the evidence which proves one would prove the other that is to say whether the facts alleged in the first charge if proven, would have, been sufficient to support the second charge and vice versa; or whether one crime is an ingredient of the other (16 C. J. 264 quoted in *People vs. Martinez*, 55 Phil. 9).

'It is clear that in the present case the second charge of Damage to Property thru Reckless Imprudence includes the first charge of reckless driving, that the facts alleged in the information on damage to property thru reckless driving, if proven, would have been sufficient to support the first charge of reckless driving, and finally, that the offense of reckless driving is an ingredient of the offense of damage to property thru reckless imprudence all for the simple reason that the basic element in both offenses is reckless driving. Thus it is evident that we have here a case of double jeopardy. And there is no explanation why when Diaz was first charged with a violation of the Motor Vehicle Law because of reckless driving, the damage to property was not included. A defendant should not be harassed with various prosecutions based on the same act by splitting the same into various charges, all emanating from the same law violation, when the prosecution could easily and well embody them in a single information.

The above pronouncements apply to the case now before us. But it is contended that in the present case the

acquittal of the appellee by the justice of the peace did not constitute a bar to his subsequent prosecution, first, because the complaint under which he was acquitted was void for failing to name the passengers injured and describe the nature and extent of their injuries, as well as to name the owner of the property damaged and specify the amount of the damage, and second, because the amount of the damage to the property put the case beyond the jurisdiction of the justice of the peace court, since the said damage amounted to P850.00 and the fine prescribed in such case is beyond the authority of the justice of the peace court to impose.

We find no merit in this contention. It may be admitted that the complaint under which the appellee was acquitted was fatally defective for want of certain essential allegations. But conviction or acquittal under such a complaint is not necessarily void when no objection appears to have been raised at the trial and the fatal defect could have been supplied by competent proof (U.S. vs. Ball, 163 U.S. 662, Kepner vs. U. S. 195 U. S. 100; U. S. vs. Estraña 16 Phil. 520). And as to the claim that the case was beyond the jurisdiction of the justice of the peace court for the reasons stated, suffice it to say that the complaint in question did not allege the value of the damage to the property and until that defect was cured no one could say that the case was beyond the cognizance of the court trying it.

Moreover as was said in the case of *People vs. Besa*, 74 Phil., 75, 'either under sec. 26 of the Code of Crim. Procedure or under sec 9, Rule 113, of the Rules of Court, whether or not the court had jurisdiction to try the greater offense is completely immaterial. The only test to determine the identity of the two offenses was, under the former procedure, whether or not 'the evidence which proves the one would also prove the other' (U.S. vs. Arcos, 11 Phil., 551, 661; *People vs. Alvarez* 45 Phil., 472; *People vs. Martinez*, 55 Phil., 69), or under the new Rules of Court whether the second offense 'necessarily includes or is necessarily included in the offense charged in the former complaint or information.' If the facts of a particular case satisfy the requirements of this test, there is double jeopardy regardless of whether the court trying the first charge has no jurisdiction to try the second offense.'

The foregoing language of the Supreme Court also disposes of the contention of the prosecuting attorney that the charge for slight physical injuries through reckless imprudence could not have been joined with the charge for homicide with serious physical injuries through reckless imprudence in this case, in view of the provisions of Art 48 of the Revised Penal Code, as amended. The prosecution's contention might be true. But neither was the prosecution obliged to first prosecute the accused for, slight physical injuries through reckless imprudence before pressing the more serious charge of homicide with serious physical injuries through reckless imprudence. Having first prosecuted the defendant for the lesser offense in the Justice of the Peace Court of Meycauayan, Bulacan, which acquitted the defendant, the prosecuting attorney is not now in a position to press in this case the more serious charge of homicide with serious physical injuries through reckless imprudence which arose out of the same alleged reckless imprudence of which the defendant have been previously cleared by the inferior court.

In view of the foregoing considerations, this case is not maintainable and the same shall be, as it is hereby, dismissed with costs de oficio, and the cancellation of the bond filed by the defendant for his provisional release."

The State in its appeal claims that the lower court erred in dismissing the case, on the ground of double jeopardy, upon the basis of the acquittal of the accused in the JP court for Slight Physical Injuries, thru Reckless Imprudence. In the same breath said State, thru the Solicitor General, admits that the facts of the case at bar, fall squarely on the ruling of the *Belga* case (supra), upon which the order of dismissal of the lower court was anchored. The Solicitor General, however, urges a re-examination of said ruling, upon certain considerations, for the purpose of delimiting or clarifying its application. We find, nevertheless, that further elucidation or disquisition on the ruling in the *Belga* case, the facts of which are analogous or similar to those in the present case, will yield no practical advantage to the government. On one hand, there is nothing which would warrant a delimitation or clarification of the applicability of the *Belga* case. It was clear. On the other, this Court has reiterated the views expressed in the *Belga* case, in the identical case of *Yap vs. Hon. Lutero, etc.* L-12669, April

30, 1959.

In view of all the foregoing, We find that the appeal of the State is without merit and the decision appealed from should be, as it is hereby, affirmed, without costs.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Dizon, and De Leon, JJ., concur.

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