

**HILARIO S. NAGRAMPA, PLAINTIFF-APPELLEE, VS. MULVANEY
MCMILLAN & CO., INC., DEFENDANT AND APPELLANT.***G.R. No. L-8326. October 24, 1955*

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5c2130de4f8f/>**CONCEPCION, J.:**

On November 24, 1950, plaintiff, Hilario S. Nagrampa, filed a complaint against defendant, Mulvaney, McMillan & Co., Inc., stating that on January 26, 1950, a truck of said defendant, bearing plate No. T-3931, then without brake and with a defective machine, and being driven by defendant's driver, Florentino Blarama, on the wrong lane of the road, bumped and struck plaintiff's truck No. T-7173, in the municipality of Makati, Rizal, as a consequence of which said truck No. T-7173 suffered damages in the sum of P1,037.30; that, accordingly, said Florentino Blarama was accused of damage to property, thru reckless imprudence, in Criminal Case No. 2462 of the Court of First Instance of Rizal; that, having pleaded guilty to the charge, said Blarama was sentenced to pay a fine of P1,037.30, plus damages in the same amount, with the corresponding subsidiary imprisonment, in case of insolvency, and costs; that said Blarama is insolvent and is serving the aforementioned subsidiary imprisonment; that, owing to Blarama's failure to pay said indemnity of P1,037.30, his employer, namely, defendant, Mulvaney, McMillan & Co., Inc., is—pursuant to articles 102 and 103 of the Revised Penal Code, as construed in the case of *Martinez vs. Barredo* (G. R. No. 4930)—ipso facto subsidiarily liable for the payment of said sum, for which reason judgment therefor is prayed, with costs. Copy of the information and of the decision rendered against Blarama, as well as of the sheriff's return—certifying (1) that Blarama had not paid the amounts stated in the aforementioned decision, upon the ground that he is insolvent, and (2) that no properties, real or personal, registered in his name, had been found—were attached to the aforesaid complaint, as Appendices A, B and C, respectively.

The defendant filed an answer admitting the allegations of the complaint, relative to the capacity of the parties, the conviction of Blarama, and the sentence rendered against him, and denying the allegations of the complaint regarding the amount of damages sustained by the plaintiff and the defendant's alleged subsidiary liability to pay said amount, "the truth of the matter being that the damage sustained by plaintiff's truck amounted to only about P300." Defendant denied, also, in its answer, the applicability of the rule laid down in the case of *Martinez vs. Barredo*.

Soon later, plaintiff filed a motion praying that, with the presentation of the documents attached thereto, as Exhibits A, B and C—which are copies of the aforementioned appendices to the complaint—judgment be rendered on the pleadings, the defendant having admitted in its answer the material allegations of the complaint. Defendant replied thereto with a pleading, dated January 16, 1951, expressing its "conformity to plaintiff's 'motion for judgment on the pleadings'", but objecting to the presentation of Exhibits A, B and C and the admission thereof, upon the ground that it is improper in a petition for judgment on the pleadings; that defendant had alleged in its answer that it is without knowledge or information sufficient to form a belief as to the truth of the allegations, in the complaint, relative to Blarama's alleged insolvency and service of subsidiary imprisonment; and that, apart

from denying that the damages sustained by the plaintiff reached the sum of P1,037.30, the defendant has alleged; in its answer, that said damages amounted to P300 only.

Thereafter, the Court of First Instance of Rizal rendered a decision sentencing the defendant to pay the plaintiff said sum of P1,037.30, with interest thereon, at the legal rate, as well as the costs. The defendant has appealed from this decision, and its counsel now allege that:

1. "The lower court erred in basing its judgment not on the pleadings exclusively but likewise on evidence presented by plaintiff-appellee alone.
2. "The lower court erred in finding defendant-appellant liable to plaintiff-appellee in the amount of P1,037.30.
3. "The lower court erred in not finding that the damage caused to plaintiff-appellee's, truck was P300." (Defendant-Appellant's Brief, pp. 4-5.)

Under the first assignment of error, it is urged that the lower court should not have considered Exhibits A, B and C as evidence in rendering the decision appealed from, the admission of said evidence being allegedly inconsistent with the nature of a judgment on the pleadings. This pretense is clearly untenable. To begin with, the decision, Exhibit B, against Blarama, was attached to the complaint (As Appendix B) by virtue of paragraph (3) thereof, in which the contents of said decision and the circumstances under which it was rendered, were set forth, and the allegations of said paragraph (3) were expressly admitted in defendant's answer. Secondly, Exhibit A is the information filed against Blarama. Copy thereof was attached, also, to the complaint, as appendix A, and the allegations of said complaint, relative thereto, were not denied by the defendant, except as to the amount of damages sustained by the plaintiff. Thus, defendant is deemed to have admitted said allegations, as regards the filing of the information and the contents thereof (Section 8, Rule 9, Rules of Court). Thirdly, although, referring to paragraph (4) of the complaint, which states

"That the accused, Florentino Blarama, in the said Criminal Case No. 2462, is insolvent and is serving the subsidiary imprisonment in the Provincial Jail, Pasig, Rizal, the fine of P1,037.30, as proved in the hereto attached Sheriff's Return, Appendix 'C' ". (Record on Appeal, p. 3.)

the defendant alleged in its answer that

"Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the complaint" (Record on Appeal, p. 10.)

it appears that in its pleading dated January 16, 1951, it expressed conformity to plaintiff's motion for judgment on the pleadings, and prayed as follows:

"Premises considered, it is respectfully prayed that a judgment on the pleadings be issued by this Honorable Court ordering defendant to pay plaintiff the amount of P300 in full settlement for the damages sustained by plaintiff's truck and caused by defendant's truck driven by Florentino Blarama." (Record on Appeal, p. 22.)

This prayer implies an acknowledgment of defendant's subsidiary liability for the damages sustained by the plaintiff, on account of the acts and omissions of former's driver, which, in turn, connotes an admission of Blarama's insolvency, upon which the aforementioned subsidiary liability depends (Articles 102 and 103, Revised Penal Code). Hence, the first assignment of error is devoid of merit.

Defendant maintains, under its second and third assignments of error, that, having specifically denied that plaintiff had suffered damages in the sum of P1,037.30, and expressly alleged that said damages amount to P300 only, it should not have been sentenced by the lower court to pay the first sum. The case of *Maria Luisa Martinez vs. Manuel H. Barredo* (45 Off. Gaz., 4922-4923) is squarely in point. The facts therein were:

"On April 11, 1940, a taxicab Owned by Fausto Barredo and driven by Rosendo Digman collided in a Manila thoroughfare with Chevrolet car driven by Maria Luisa Martinez. The collision gave rise to mutual charges for damage to property through reckless imprudence, one by Maria Luisa Martinez against Digman, and the other by Fausto Barredo against Maria Luisa Martinez. After investigation, the fiscal filed an information against Digman and quashed Barredo's complaint. Digman entered a plea of guilty in his criminal case and was therefore sentenced to pay a fine of P605.97 and to indemnify Maria Luisa Martinez in the same amount, with subsidiary imprisonment in case of insolvency, and the costs. Digman failed to pay any of these amounts and had to undergo corresponding subsidiary imprisonment. Due to the inability of Digman to pay the indemnity, Maria Luisa Martinez, filed an action in the Court of First Instance of Manila against Fausto Barredo, as Digman's employer, for the purpose of holding him subsidiary liable for said indemnity under articles 102 and 103 of the Revised Penal Code. At the trial Maria Luisa Martinez relied solely on the judgment of conviction against Rosendo Digman, the writ of execution issued against him, a certificate of the Director of Prisons regarding Digman's service of subsidiary imprisonment, and the information filed against Digman. Maria Luisa Martinez obtained a favorable judgment from which Barredo appealed to the Court of Appeals. The latter court, reversing the decision of the Court of First Instance, held that the judgment of conviction was not conclusive against Barredo and its weight as prima facie evidence was overcome by the evidence presented by Barredo. Hence the present appeal of Maria Luisa Martinez by way of certiorari.

"The important question is whether a judgment of conviction sentencing the defendant to pay an indemnity is conclusive in an action against his employer for the enforcement of the latter's subsidiary liability under articles 102 and 103 of the Revised Penal Code."

Passing upon the issues thus raised, we held:

"After very careful reflection, we have arrived at the opinion that the judgment of conviction, in the absence of any collusion between the defendant and the offended party, should bind the person subsidiary liable. The stigma of a criminal conviction surpasses in effect and implications mere civil liability. Common sense dictates that a finding of guilt in a criminal case in which proof beyond reasonable doubt is necessary, should not be nullified in a subsequent civil action requiring only preponderance of evidence to support a judgment, unless those who support the contrary rule should also hold that an absolution in a civil case will operate to automatically set aside the verdict against the defendant in the criminal case. It is anomalous, to say the least, to suppose that the driver, excelling 'Dr. Jekyll and Mr. Hyde', could be guilty of reckless negligence in so far as his obligation to pay indemnity is concerned, and at the same time could be free from any blame when said indemnity is sought to be collected from his employer, although the right to the indemnity arose from and was based on one and the same act of the driver.

"The employer cannot be said to have been deprived of his day In court, because the situation before us is not one wherein the employer is sued for a primary liability under article 1903 of the Civil Code, but one in which enforcement is sought of a subsidiary civil liability incident to and dependent upon his driver's criminal negligence which is a proper issue to be tried and decide only in a criminal action. In other words, the employer becomes ipso facto subsidiarily liable upon his driver's conviction and upon proof of the later's insolvency, in the same way that acquittal wipes out not only the employee's primary civil liability but also his employer's subsidiary liability for such criminal negligence."

Considering that, as thus held, the employer becomes ipso facto subsidiary liable upon conviction of his employee and upon proof of the latter's insolvency; that the only proof of the employee's insolvency in the Martinez case was a certificate, of the Director of Prisons, regarding service of subsidiary imprisonment by the accused involved therein; that a similar certificate, issued by the Provincial Sheriff of Rizal (Appendix C and Exhibit C), appears in the record hereof; that, as above stated, defendant herein has impliedly admitted the insolvency of its driver Blarama; that there is no allegation, or even insinuation, that the decision Exhibit B, rendered against Blarama, is tainted with fraud, collusion or clear mistake of law or fact, or lack of jurisdiction; and that, although defendant

maintains that the damages sustained by the plaintiff amount to P300 only, this pretense is untenable in view of the conclusive nature of the decision against Blarama (Exhibit B) /fixing the amount of said damages at Fl.037.30, it follows necessarily that the second and third* assignments of error cannot be sustained.

Wherefore, the decision appealed from is hereby affirmed, with costs against the defendant-appellant. So ordered.

Paras, C.J., Bengzon, Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, and Reyes, J.B.L., JJ., concur.

Montemayor, J., concurs in the result.

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.