

EPITACIO BUERANO, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-30269. July 19, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

Petitioner Epitacio Buerano was the driver of LTB bus with Plate No. 22-900 which collided with the Mabuhay Bakery delivery panel bearing Plate No. T-13016 driven by Hipolito Vismonte and owned by Chu Yu in Tanay , Rizal on September 20, 1957 .

On December 3, 1957, the Chief of Police of Tanay, filed with the Municipal Judge of that municipality Criminal Case No. 251 against herein petitioner for the crime of "Slight and Serious Physical Injuries through Reckless Imprudence." In said Criminal Case No. 251, the complaint alleged, among other things, "causing by such negligence, carelessness and imprudence that the said bus, drive and operated by him (petitioner) to collide with the delivery truck of Mabuhay Bakery owned by Mr. Chu Yu alias Mariano of Tanay, Rizal, bearing Plate No. T-13016, the result of which the right front side of the said truck (Mabuhay Bakery) was greatly damaged and the driver, Hipolito Vismonte, including the two (2) helpers, namely, Bonifacio Virtudazo and Sy Tian alias Martin, suffered physical injuries on the different parts of the body which required medical attention as follows:

" Hipolito Vismonte - five (5) days

Bonifacio Virtudazo - ten (10) days

Sy Tian alias Martin - one (1) month"

On February 6, 1958, after trial, petitioner was found guilty of slight and less serious physical injuries through reckless imprudence and sentenced "to suffer imprisonment from one (1) month and one (1) day to two (2) months and to pay the cost of the suit." He appealed the decision to the Court of First Instance of Rizal where the case was docketed as Criminal Case No. 7722.

On May 2, 1962, the Court of First Instance of Rizal affirmed the decision of the Municipal Court and sentenced petitioner to suffer four months of Arresto Mayor and to pay the costs.

In the meantime, the Assistant Provincial Fiscal of Rizal filed against herein petitioner Criminal Case No. 7965 in the Court of First Instance charging him with the crime of damage to property through reckless imprudence. He filed a Motion to Quash on the ground of double jeopardy in that because he has been previously convicted of the offense charged, referring to the judgment of conviction by the Municipal Court and the Court of First Instance. Opposition was filed by the Provincial Fiscal contending that the crime for which petitioner was convicted was for less serious physical injuries through reckless imprudence, whereas the second case was for damages to property through reckless imprudence which are distinct offenses. In support thereof, he cited the case of *People vs. Estipona*, 70 Phil. 513, which held that the two (2) offenses care entirely distinct from one another, punishable under two (2) different provisions of the code and that more evidence are necessary to sustain the complaint for

injuries than those submitted in the case for damage.

The Court of First Instance denied the motion to quash and, after trial, found petitioner guilty in Criminal Case No. 7965 of the crime of damage to property through reckless imprudence. Petitioner appealed to the Court of Appeals which sustained the Court of First Instance and sentenced herein petitioner "to pay a fine of P4 ,387.00 which is double the amount of damages suffered by the delivery truck with subsidiary imprisonment in case of insolvency; to indemnify the offended party, the owner of the delivery truck in the amount of P2,193.50, representing the amount of damages suffered by the said delivery truck, and to pay the costs." The Court of Appeals held that there was no double jeopardy because -

"x x x First. Neither in the JP Court nor in the CFI on appeal was the appellant convicted or acquitted of the offense of Damage to Property Thru Reckless Imprudence or the case against him for that offense dismissed or otherwise terminated without his express consent. Second. The JP Court which found him guilty of Slight and Less Serious Physical Injuries was not a court of competent jurisdiction to try the offense of Damage to Property Thru Reckless Imprudence involving P2,193.50 because the imposable penalty may be three times the aforesaid amount. Third. Appellant could not have validly pleaded before the JP Court to the said offense of Damage to Property Thru Reckless Imprudence. Fourth. The offense of Damage to Property Thru Reckless Imprudence as alleged in the Information in Criminal Case No. 7965 (the second case) does not include and is not necessarily included in the first charge of Slight and Less Serious Physical Injuries Thru Reckless Imprudence, as alleged in the Information filed in Criminal Case No. 7722, the continuation of Criminal Case 251; and Fifth: Appellant was never tried at all in the JP Court of Tanay in Criminal Case No. 251 nor in the CFI in Criminal Case No. 7722 for the crime of Damage to Property Thru Reckless Imprudence.

"We have read the case of *People vs. Jose Belga*, 53 O.G. (10) 3081, May 31, 1957, cited by appellant, and are of the opinion that the basic reason relied therein is not found in the case at bar, first because there were three (3) cases filed in that case, to wit, Criminal Case No. 88, Reckless Imprudence with Physical Injury; Criminal Case No. 95, Damage to Property Thru Reckless Imprudence, and Criminal Case No. 96, for Multiple Physical Injuries thru Reckless Imprudence, and accused Jose Belga was acquitted in the first case No. 88, after due trial, charging both physical injuries and damage to property thru reckless imprudence. In the case at bar, the offense of damage to property thru reckless imprudence arising out of the collision has not been passed upon or dealt with in both Criminal Case No. 251, JP Court of Tanay, and in Criminal Case 7722 of the CFI, whereas Criminal Case No. 7965, the present case, is solely for damage to property thru reckless imprudence. In fact, appellant could not have been convicted of Damage to Property Thru Reckless Imprudence under the Information filed in Criminal Case No. 7722, the first case, for it charges only the offense of Less Serious Physical Injury Thru Reckless Imprudence. Obvious is the fact that no case for damage to property thru reckless imprudence was tried in which appellant could be convicted or acquitted or the case against him dismissed or otherwise terminated without his express consent. Furthermore, under Sec. 9 of Revised Rule 117, in order for jeopardy to be available as bar, the second offense, Criminal Case No. 7965, must necessarily include or is necessarily included in the offense charged in the first case, Criminal Case No. 7722. Considering that the decision of the JP in Criminal Case No. 251 was vacated and the information filed by the Fiscal in Criminal Case 7722 (the continuation of Criminal Case 251) charges only the offense of Less Serious Physical Injuries, it is evident that the first offense does not include the second, nor the second, the first."

This view of the Court of Appeals was inspired by the ruling of this Court in the pre-war case of *People vs. Estipona* decided on November 14, 1940. However, in the case of *People vs. Buan*, 22 SCRA 1383 (March 29, 1968), this Court, speaking thru Justice J. B. L. Reyes, held that -

"Reason and precedent both coincide in that once convicted or acquitted of a specific act of reckless imprudence, the accused may not be prosecuted again for that same act. For the essence of the quasi offense of criminal negligence under Article 365 of the Revised Penal Code lies in the execution of an imprudent or negligent act that, if intentionally done, would be punishable as a felony. The law penalizes thus the negligent

or careless act, not the result thereof. The gravity of the consequence is only taken into account to determine the penalty, it does not qualify the substance of the offense. And, as the careless act is single, whether the injurious result should affect one person or several persons, the offense (criminal negligence) remains one and the same, and can not be split into different crimes and prosecutions.

"x x x x x x x x

"x x the exoneration of this appellant, Jose Buan, by the Justice of the Peace (now Municipal) Court of Guiguinto, Bulacan, of the charge of slight physical injuries through reckless imprudence, prevents his being prosecuted for serious physical injuries through reckless imprudence in the Court of First Instance of the province, where both charges are derived from the consequences of one and the same vehicular accident, because the second accusation places the appellant in second jeopardy for the same offense."

Then Solicitor General, now Justice Felix V. Makasiar, in his MANIFESTATION dated December 12, 1969 (page 82 of the Rollo) admits that the Court of Appeals erred in not sustaining petitioner's plea of double jeopardy and submits that "its affirmatory decision dated January 28, 1969, in Criminal Case No. 05123-CR finding petitioner guilty of damage to property through reckless imprudence should be set aside, without costs." He stressed that "if double jeopardy exists where the reckless act resulted into homicide and physical injuries, then the same consequence must perforce follow where the same reckless act caused merely damage to property - not death - and physical injuries. Verily, the value of a human life lost as a result of a vehicular collision cannot be equated with any amount of damages caused to a motor vehicle arising from the same mishap."

WHEREFORE, the judgment of conviction in Criminal Case No. CA-G.R. No. 05123-CR is hereby set aside and petitioner is acquitted of the offense charged therein.

SO ORDERED.

Teehankee, Acting C.J., Plana, and Gutierrez, Jr., JJ., concur.

Vasquez, J., in the result.

Makasiar and Melencio-Herrera, JJ., no part.

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