

**BERNARDO JOCSON AND MARIA D. JOCSON,
PLAINTIFFS-APPELLEES, VS. REDENCION GLORIOSO,
DEFENDANT-APPELLANT.**

G.R. No. L-22686. January 30, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

For the death of a three year-old boy who was run over by a passenger jeepney, two actions were filed by the parents, the first, against its owner and the driver for culpa aquiliana, and the other, against the driver for homicide thru reckless imprudence, the criminal action having been instituted while the civil case was pending trial. The civil case was dismissed, the lower court being of the opinion that "in conscience" it could not "hold the * * * defendant driver guilty of negligence or lack of care resulting in or contributory to, the said accident." [1] There was an appeal, but it did not prosper, the Court of Appeals dismissing it for failure of appellants to pay the docketing fees.

The criminal case against the driver had a different outcome. He was convicted by the trial court of homicide thru reckless imprudence "and aside from the prison sentence imposed upon him, was ordered to indemnify the heirs of the deceased in the sum of P6,000.00 with subsidiary imprisonment in case of insolvency." [2]

The accused driver appealed raising as one of the issues "the propriety of sentencing the driver to pay indemnity to the parents of the deceased child, considering the fact that the civil action for damages brought by the parents of the child against the driver and the owner of the vehicle was dismissed." [3] The matter being taken to the Court of Appeals, the decision was modified as to the duration of the prison sentence, but insofar as the civil indemnity was concerned, was affirmed. After the judgment became final, a writ for the execution of the civil liability was returned unsatisfied due to the insolvency of the accused.

The parents, now plaintiffs-appellees, in an action with the Court of First Instance of Manila against defendant, now appellant, sought to enforce such civil liability against her as owner of the jeepney, pursuant to Article 103 of the Revised Penal Code. At the trial, the principal defense pressed was bar by a prior judgment, the attention of the Court having been called to the civil case for damages based on culpa aquiliana, filed against defendant and her driver, a case, which as noted, was dismissed. The defense was not considered meritorious, and judgment was rendered by the Hon. Carmelino Alvendia, finding defendant liable for subsidiary liability in accordance with Article 103 of the Revised Penal Code in the sum of P6,030.00, with costs.

Hence this appeal. Since the principal legal question was that pressed before the trial judge and his determination of such question was in accordance with the settled law, the decision must be affirmed.

Article 103[4] is quite explicit. For a felony committed by servants, pupils, workmen, apprentices, or employees in the discharge of their duties, the employers, teachers, persons, and corporations are made subsidiarily liable. As authoritatively interpreted by this Court in *Martinez v. Barredo*, [5] "judgment of conviction, in the absence of any collusion between the defendant and the offended party, should bind the person subsidiarily liable." Such a

decision is of a "conclusive nature * * *;"[6] it is "binding and conclusive upon defendant not only with regard to its civil liability but also with regard to its amount because the liability of an employer cannot be separated but follows that of his employee." [7] The latest manifestation of approval of the Martinez doctrine appears in *Bantoto v. Bobis*, [8] recently promulgated.

Thus the novel question presented is whether the previous dismissal of an action based on culpa aquiliana precludes the application of the plain and explicit command of Article 103 of the Revised Penal Code. We do not think so. *Diana v. Batangas Transportation Co.*, [9] while not decisive, furnishes some light.

The opinion by Justice Bautista Angelo noted that such appeal arose "from a case originally instituted in the Court of First Instance of Laguna wherein plaintiffs seek to recover from defendant as a party subsidiarily liable for the crime committed by an employee in the discharge of his duty the sum of P2,500 as damages, plus legal interest, and the costs of action." [10] The pertinent facts follow: "Plaintiffs are the heirs of one Florenio Diana, a former employee of the defendant. On June 21, 1945, while Florenio Diana was riding in Truck No. 14, belonging to the defendant, driven by Vivencio Bristol, the truck ran into a ditch at Bay, Laguna, resulting in the death of Florenio Diana and other passengers. Subsequently, Vivencio Bristol was charged and convicted of multiple homicide through reckless imprudence wherein, among other things, he was ordered to indemnify the heirs of the deceased in the amount of P2,000. When the decision became final, a writ of execution was issued in order that the indemnity may be satisfied, but the sheriff filed a return stating that the accused had no visible leviable property. The present case was started when defendant failed to pay the indemnity under its subsidiary liability under article 103 of the Revised Penal Code. The complaint was filed on October 19, 1948 (civil case No. 9221)." [11]

On December 13 of the same year, defendant Batangas Transportation Co. filed a motion to dismiss on the ground of the pendency of the other action between the same parties for the same cause, the plaintiffs seeking to recover from the aforesaid defendant the amount of P4,500 as damages resulting from the death of Florenio Diana while on board a truck of defendant allegedly due to the negligent act of its driver Bristol. Clearly then, the basis of the action was culpa aquiliana. On December 16, 1948, there was a written opposition to such motion to dismiss. Then on February 3, 1949, came an order of dismissal from the lower court which found the motion well-founded. The reconsideration sought having been denied, the appeal, as set forth in the opening paragraph of the opinion, was taken.

In reversing the action of the lower court, this Court stated that there could be no doubt "with regard to the identity of parties." [12] It is not so concerning "the identity of reliefs prayed for, * * *." [13] As was stated in the opinion: "It should be noted that the present case (civil case No. 9221) stems from a criminal case in which the driver of the defendant was found guilty of multiple homicide through reckless imprudence and was ordered to pay an indemnity of P2,000 for which the defendant is made subsidiarily liable under article 103 of the Revised Penal Code, while the other case (civil case No. 8023) is an action for damages based on culpa aquiliana which underlies the civil liability predicated on articles 1902 to 1910 of the old Civil Code. These two cases involve two different remedies." [14]

It was the conclusion of this Court then: "Consider-ing the distinguishing characteristics of the two cases, which involve two different remedies, it can hardly be said that there is identity of reliefs in both actions as to make the present case fall under the operation of Rule 8, section 1(d) of the Rules of Court. In other words, it is a mistake to say that the present action should be dismissed because of the pendency of another action between the same parties involving the same cause. Evidently, both cases involve different causes of action. In fact, when the Court of Ap-peals dismissed the action based on culpa aquiliana (civil case No. 8023), this distinction was stressed. It was there said that the negligent act committed by defendant's employee is not a quasi crime, for such negligence is punished by law. What plaintiffs should have done was to institute an action under article 103 of the Revised

Penal Code (CA-G.R. No. 3632-R). And this is what plaintiffs have done. To deprive them now of this remedy, after the conviction of defendant's employee, would be to deprive them altogether of the indemnity to which they are entitled by law and by a court decision, which injustice it is our duty to prevent."^[15] On the same principle then, the previous dismissal of the action based on culpa aquiliana could not be a bar to the enforcement of the subsidiary liability required by Article 103 of the Revised Penal Code.

What clearly emerges then is the controlling force of the principle that once there is a conviction for a felony, final in character, the employer, according to the plain and explicit command of Article 103 of the Revised Penal Code, is subsidiarily liable, if it be shown that the commission thereof was in the discharge of the duties of such employee.

Another consideration is equally decisive in the affirmance of the appealed judgment. A decision of conviction of the driver was affirmed by the Court of Appeals, which rejected the defense of a bar by a prior judgment arising from the dismissal of the action based on culpa aquiliana. "To take up this issue anew, [according to the lower] Court, would be equivalent for this Court to review the decision of the Court of Appeals. That would be preposterous and against the law. While it is true that the defendant in this case was not a party to the Criminal Case, since the liability sought to be enforced against her in this case is merely subsidiary and is a necessary consequence of the judgment of conviction rendered in the criminal case, the decision of the Court of Appeals denying the defense of prior judgment set up by Mendoza is equally applicable against defendant in this case."^[16]

No error could be imputed the lower court for viewing the matter thus. From *Shioji v. Harvey*,^[17] the principle is undisputed that a lower court judge "cannot enforce different decrees than those rendered by the superior court. If each and every Court of First Instance could enjoy the privilege of overruling decisions of [a higher court], there would be no end to litigation, and judicial chaos would result." As noted by this Court, the emphatic language employed was "intentionally framed * * * to keep lower courts from assuming supervisory jurisdiction to interpret or to reverse the judgment of the higher court."^[18] To the same effect is the view that there is compelling reason for denying a lower court the power to refuse "to issue such writ [of execution] or quash it or order its stay, when the judgment had been reviewed and affirmed by an appellate court, for it cannot review or interfere with any matter decided on appeal, or give other or further relief, or assume supervisory jurisdiction to interpret or reverse the judgment of the higher court."^[19] The latest opinion of this Court on the matter, speaking through Justice Dizon follows: "It is elementary - so elementary, indeed, that even freshmen law students know it - that an inferior court has no legal authority to set aside a final and executory decision * * *."^[20]

The lower court, therefore, acted strictly in compliance with a principle, authoritative and binding in character, in holding defendant-appellant subsidiarily liable.

WHEREFORE, the appealed decision is affirmed. With costs against defendant-appellant.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, and Ruiz Castro, JJ., concur. Sanchez and Angeles, JJ., did not take part.

[1] Decision, Record on Appeal, p. 17.

[2] Decision, Record on Appeal, p. 71.

[3] Id., p. 71.

[4] ART. 103. "Subsidiary civil liability of other persons. - The subsidiary liability established in the next

preceding article shall also apply to employers, teachers, persons, and corporations engaged in any kind of industry for felonies committed by their servants, pupils, workmen, apprentices, or employees in the discharge of their duties." Article 102 speaks of subsidiary civil liability of innkeepers, tavernkeepers, and proprietors of establishments.

[5] 81 Phil. 1, 3 (1948).

[6] *Nagrampa v. Mulvaney McMillan & Co., Inc.* 97 Phil. 724 (1955).

[7] *Miranda v. Malate Garage & Taxicab, Inc.* 99 Phil. 670, 673 (1956). See also *Manalo and Salvador v. Robles Trans. Co., Inc.*, 99 Phil. 729 (1956).

[8] L-18966, Nov. 22, 1966.

[9] 93 Phil. 391 (1953).

[10] *Diana v. Batangas Trans. Co.*, 93 Phil. 391, 392 (1953).

[11] *Id.*, at p. 392.

[12] *Id.*, at p. 393.

[13] *Id.*, at p. 393.

[14] *Id.*, at pp. 393-394.

[15] *Id.*, at pp. 394-395.

[16] Decision of the lower court, Record on Appeal, pp. 73-74.

[17] 43 Phil. 333, 337 (1922). According to *Cabigao and Izquierdo v. Del Rosario and Lim*, 44 Phil. 182, 185 (1922) citing *Shioji v. Harvey*, "Inferior courts cannot vary the mandate of the superior court, or examine it, for any other purpose than execution; nor give any other or further relief; nor review it, upon any matter decided on appeal for error apparent; nor intermeddle with it further than to settle so much as has been remanded."

[18] *Chua A.H. Lee v. Mapa*, 51 Phil. 624, 628 (1928). See also *Philippine Trust Co. v. Santamaria*, 53 Phil. 463 (1929).

[19] *Amor v. Jugo*, 77 Phil. 703, 707 (1946).

[20] *Usaffe Veterans Asso., Inc. v. Treasurer of the Phil.*, L-18393, December 17, 1966.

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