

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. ENRIQUE NARVAS, DEFENDANT AND APPELLEE.

G.R. No. L-14191. April 27, 1960

Ponente: BENGZON, J.

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BENGZON, J.:

Appeal from the order of Hon. Cecilia Muñoz-Palma of the Rizal court of first instance sustaining the defendant's plea of double jeopardy to an information for damage to property thru reckless imprudence, committed as follows:

"That on or about the 27th day of July, 1957, in the municipality of Pasig, Province of Rizal, a place within the jurisdiction of this Honorable Court, the above named accused, being then the driver and person in charge of a passenger truck (Antipolo Highway) with plate No. TPU-23906, without taking the necessary care and precaution to avoid accident to persons and damage to property, and without due regard to traffic laws, rules and regulations, did then and there willfully, unlawfully and feloniously manage, operate, and drive said motor vehicle in a reckless, careless and imprudent manner and as a result thereof, the passenger truck driven by him bumped and hit a carabao, zigzagged from one side of the road to, the other, the said track going beyond the shoulders of the road thereby hitting and bumping two stores belonging to Paulino Jose and Eulogio Alegre and a house owned by Pedro Ramos, as a result of which the aforementioned properties (2 stores and a house) sustained damages and the carabao owned by Baldomero Ruiz was rendered useless due to injuries suffered from the said incident, the corresponding damage being as follows:

1. Value of the carabao belonging to Baldomero Ruiz

P500.00

2. Store belonging to Paulino Jose

99.00

3. Store belonging to Eulogio Alegre

330.00

4. House belonging to Pedro Ramos.....

1,500.00

of the total value of P2,449.00 to the damage and prejudice of the respective owners thereof in the total amount indicated opposite each name."

It appears that for the same vehicular incident, this accused had been tried, convicted and sentenced to jail for fifteen days, under the information quoted herewith:

"COMPLAINT"

"The undersigned Chief of Police, Pasig, Rizal having been duly sworn on oath, accuses one Enrique Narvas of

the crime of "multiple slight and serious physical injuries thru reckless imprudence," committed as follows:

"That on or about the 27th day of July, 1957, in the municipality of Pasig, Province of Rizal, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused being then the driver and person incharge of a passenger truck bearing plate number TPU-23906, did then and there willfully, unlawfully and feloniously, while traveling along Rosario Junction in careless, negligent and imprudent manner, without due regards to the traffic laws, regulations and ordinance of this municipality and without taking the necessary precaution to prevent accident and damage to properties, causing by such negligence, carelessness and imprudence that the said truck driven by tho accused at a high speed to bump a carabao, then to swerve on the other side of the road grazing the stores of Nene Mateo and Eulogio Alegre, then swerved again, oil the other side of the road and bumped the house of Pedro Ramos where the said truck stopped and as a result of which the passengers of the said track namely: (1) Beatriz U. Zapanta sustained. (1) Fracture, simple, clavicle, left; (2) Fracture, simple spinous processes C-5 and C-6; (3) Fracture, simple transverse process C-7 and (4) Lacerated wound, neck, left, which injuries required and require for a period of four to six months; etc. (here follows description of injuries sustained by other passengers) * * *."

The question in this appeal is whether such conviction bars continuation of the proceedings under the information quoted at the beginning of this decision. The judge said yes, applying Sec. 9 of Rules of the Rules of Court which for convenience is quoted:

"Former conviction or acquittal or former jeopardy.—When a defendant shall have been convicted or acquitted, or the case against him dismissed or otherwise terminated without the express consent of the defendant, by a court of competent jurisdiction, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction, and after the defendant had pleaded to the charge, the conviction or acquittal of the defendant or the dismissal of the case shall be 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."

The question in turn depends upon whether the offense described in the information first quoted herein, "is necessarily included" in the offense charged in the second information hereinabove transcribed. (We shall hereafter refer to them as first information" and "second information" respectively).

In determining the issue, we may apply Rule 116, sec. 5 and say that the offense described in the first information is necessarily included in the offense described in the second information when some of the essential elements or ingredients of the latter as alleged in the information itself, constitute the former.[1]

Here are the essential elements of the second information: (a) date and place of accident; (b) accused managed truck under TPU-28906 license, in careless, negligent manner; (c) accused thus caused the truck to hit a carabao and graze the stores of Nene Mateo and Eulogio Alegre, and bump the house of Pedro Ramos; (d) physical injuries caused to Beatriz Zapanta, Guillerma Fernando, et al.; (e) time within which such injuries would heal.

It will thus be seen that the three elements (a), (b), (c) above related constitute the offense described in the first information; damage to property thru reckless imprudence. True, there is no direct allegation of damage to property, but it is common sense to conclude that the carabao was hurt and the stores and house were damaged by the impact, which was so violent as to cause the truck to zig-zag from one side of the road to the other; specially because the information itself charged the accused with having failed to take "the necessary precaution to prevent accident and damage to properties". It is also true that the information did not assert the value of the damage caused. But in this, as in theft and estafa cases, the damage may be assessed at the minimum penalized by law.[2]

In other words, if the prosecution had proved all the material allegations of the second information, this accused could have been convicted (and therefore had been in danger of being convicted) of the offense for which he is

being prosecuted now.

Needless to say, the second information in reality described two offenses; damage to property thru reckless negligence and physical injuries thru reckless negligence.

The appellant cites the case of *People vs. Estipona*, 70 Phil., 513, wherein it was held that a person prosecuted for and convicted of, damage to property thru reckless imprudence, could again be prosecuted for physical injuries thru reckless imprudence produced on the same occasion. But therein it does not appear that the information for damage to property also described the offense of physical injuries, both caused thru reckless imprudence.

The appealed order is affirmed.

Paras, C. J., Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

Padilla and Reyes, J.B.L., JJ., took no part.

[1] Cf. Moran, *Comments on the Rules of Court*, 1967 Ed. Vol. II, p. 786. *People vs. Martinez*, 55 Phil. 6; *People vs. Besa*, 74 Phil., 57; *People vs. Villasis*, 81 Phil., 881.

[2] *U. S. vs. Abad*, 23 Phil., 604; *U. S. vs. De la Cruz*, 12 Phil., 87; *U. S. vs. Galanco*, 11 Phil., 575; *U. S. vs. Del Castillo*, 35 Phil., 418.

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