

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. JOSE BELGA, DEFENDANT AND APPELLEE.

G. R. Nos. L-8901-02. February 28, 1957

Ponente: REYES, A., J.

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REYES, A., J.:

These two cases are now before us on appeal from an order of dismissal rendered by the Court of First Instance of Albay.

It appears that as a result of a collision between two public service vehicles, one driven by Ciriaco Belga and the other by Jose Belga, the chief of police of Malilipot, Albay, filed a complaint in the justice of the peace court of that municipality, dated March 27, 1952 and worded as follows:

"The People of the Philippines, Criminal Case No. 88

Plaintiff

For: Reckless Imprudence with

vs.

Physical Injury

Ciriaco Belga and Jose Belga,

Accused

COMPLAINT

"The undersigned Chief of Police of Malilipot, Albay, being first duly sworn according to law, accuses Ciriaco Belga and Jose Belga, of the offense Reckless Imprudence committed as follows:

"That on or about the 26th day of March, 1952, in the barrio of San Jose, Malilipot, Albay, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-mentioned accused Ciriaco Belga while in charge of Automobile TPU 759 did drive towards Bacacay with 14 passengers; and Jose Belga while in charge of Automobile TPU No. 854 did drive towards Tabaco and by reason of their lack of skill and also of their negligence and imprudence on their part, did then and there collided with each other and thus willfully, mutually and feloniously, caused car TPU No. 759 driven, by. the accused Ciriaco Belga to fall into the ditch with 4 passengers injured.

"That both cars were partly destroyed caused by the collision to the damage and prejudice of both

parties."Contrary to Law."

Without the above complaint having been dismissed or otherwise disposed of, two other criminal complaints were later filed in the same court in connection with the same collision, one (Criminal Case No. 95, for damage to property thru reckless imprudence) signed by Eufrosinio Bel-monte, owner of TPU-759 and other other (Criminal Case No. 96, for multiple physical injuries through reckless imprudence) signed by five injured passengers of the said vehicle. Unlike the above-copied complaint of the chief of police which was against the drivers of both vehicles, the latter two complaints were against Jose Belga only, driver of TPU-854.

It would appear from the annexes to the appellee's brief that Criminal Case No. 88, the one filed by the chief of police against both drivers, was called for hearing on November 17, 1953 and on that day, the said appellee, Jose Belga, pleaded not guilty and went to trial. His co-accused Ciriaco Belga, was neither arraigned nor tried on that day because of the absence of his attorney, who was then busy in another court. After the prosecution had presented its evidence against Jose Belga, counsel for the latter moved for the dismissal of the case of insufficiency of proof. The justice of the peace considered the motion meritorious but, instead of granting it, required the defense to present its evidence. The defense complied but, after resting its case, again moved for dismissal. Finding merit in this motion and in a similar one filed for the other accused, Ciriaco Belga, when the case was again called for hearing on December 21, the justice of the peace, on December 23, 1953, handed down an order declaring both accused "acquitted of the charge against them."

Following his acquittal, counsel for Jose Belga moved to quash the complaint for multiple physical injuries thru reckless imprudence filed against him by the injured passengers, contending that the case was but a duplication of the one filed by the chief of police wherein this accused had just been acquitted. But the motion was denied and after trial Jose Belga was convicted. He appealed to the Court of First Instance, and the case for damage to property thru reckless imprudence filed by the owner, of one of the vehicles having been also forwarded to that court after preliminary investigation had been waived, the provincial fiscal filed in said Court of First Instance two informations against Jose Belga, one for physical injuries thru reckless imprudence and the other for damage to property thru reckless imprudence. Alleging double jeopardy, counsel for Jose Belga asked for the dismissal of both cases, and the court having granted the motion, the provincial fiscal took the present appeal.

The question for determination is whether the acquittal of Jose Belga in the case filed by the chief of police constitutes a bar to his subsequent prosecution for multiple having driven an automobile in a "fast and reckless manner * * * thereby causing an accident. After the reckless imprudence. The amount of the damage was alleged imprudence.

In the case of *People vs. Francisco Diaz* * G. R. No. L-6518, promulgated March 30, 1954, the accused was charged in the municipal court of Pasay City with reckless driving, under section 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 through reckless imprudence. The amount of the damage was alleged to be P249.50. Pleading double jeopardy, the accused filed a motion to quash. The court granted the motion, and on appeal by the Government we affirmed the ruling. Among other things we there said through Mr. Justice

"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 through 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, section 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 through Reckless Imprudence includes the first charge of reckless driving; that the facts alleged in the information on damage to property through 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 through 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 P350 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; *Kekner vs. U. S.* 195 U. S. 100; *U. S. vs. Estrana*, 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. 57, "either under section 26 of the Code of Criminal Procedure or under section 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, 561; *People vs. Alvarez*, 45 Phil. 472; *People vs. Martinez*, 55 Phil. 6, 9), 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 had no jurisdiction to try the second offense."

In view of the foregoing, the order appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Bengzon, Padilla, Montermyor, Bautista Angela, Labrador, Concepcion, Reyes, J. B. L. and Endencia, JJ., concur.

Felix J., concurs in the result. Order affirmed.

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