

THE REPUBLIC OF THE PHILIPPINES (CAPIZ AGRICULTURAL AND FISHERY SCHOOL), PETITIONER, VS. HON. SILVESTRE BR. BELLO, PRESIDING JUDGE OF BRANCH II, COURT OF FIRST INSTANCE OF CAPIZ...

G.R. No. L-34906. January 27, 1983

Ponente: VASQUEZ, J.

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VASQUEZ, J.:

The Republic of the Philippines, in behalf of the Capiz Agricultural and Fishery School, takes this appeal from an order of the respondent Court of First Instance of Capiz dismissing Civil Case No. V-3339 which it filed against private respondent Romeo A. Arceño for the recovery of the amount representing his alleged liability to the government in connection with his employment as Cashier and Disbursing Officer of the said school.

Private respondent Arceño, in his aforementioned capacity, was charged in Criminal Case No. CCC-XI-39 for malversation of public funds in the amount of P6,619.34 which he supposedly failed to produce or to make proper accounting thereof after repeated demands. After due trial, the respondent court rendered a decision acquitting Arceño, a portion of which reads as follows:

"To briefly summarize:— the undisputed facts spread before the court clearly and unmistakably show lack of criminal intent on accused's part in not issuing official receipts for his collections and disbursements; absence of proof that the accused benefited personally from his disbursements nor has it been shown that he was inexcusably negligent in the administration of public funds and properties entrusted to his care; nor has it been shown and proven that the government suffered damage or prejudice as the accused's disbursements were for the benefit of the Capiz Agricultural and Fishery School; that the funds claimed to be missing in the amount of P6,619.34 is not really missing for the accused demonstrated that said amounts were spent for and in the interest of the Capiz Agricultural and Fishery School as shown by the numerous chits, vouchers, vales, etc., presented in Court.

'WHEREFORE, finding the evidence of the prosecution not sufficient to establish the guilt of the accused beyond reasonable doubt, the court hereby acquits Romeo Arceño from the charge of malversation on grounds of Reasonable Doubt, with costs de officio and the cancellation of the bail bond posted by him for his provisional liberty.

'SO ORDERED.'" (pp. 119-120, Rollo; pp. 2-3, Appellant's Brief, p. 239, Rollo.)

After the acquittal of Arceño, the Provincial Fiscal filed Civil Case No. V-3339 for the recovery of the total sum of P13,790.71 which represented the accountability of Arceño due to his failure to issue official receipts and to immediately deposit said funds with the National Treasury, and instead spent the said funds or disbursed them without complying with the requirements applicable to disbursements of public funds, with intent to defraud the government. Arceño, through counsel, filed a motion to dismiss the complaint in the said civil case alleging, among others, that the petitioner, as plaintiff therein, had no cause of action against him inasmuch as "the cause of

action had been decided in a prior judgment." The opposition filed by the Provincial Fiscal to the motion to dismiss was not adhered to by the respondent court which issued an order dated June 10, 1971 dismissing the complaint in Civil Case No. V-3339. A motion for reconsideration from the dismissal was denied. Hence, this appeal.

The only issue raised in this appeal is whether or not the acquittal of Arceño in the criminal case bars the filing of the civil action against him. Arceño relies on the provision of Section 3(c) of Rule 111 of the Rules of Court, which reads as follows:

"(c) Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In other cases, the person entitled to the civil action may institute it in the jurisdiction and in the manner provided by law against the person who may be liable for restitution of the thing and reparation or indemnity for the damage suffered." (Italics supplied).

The petitioner, on the other hand, disputes the contention of Arceño and maintains that the decision in the criminal case does not contain any declaration that the facts from which the civil liability might arise did not exist.

We uphold the stand of the petitioner. An examination of the decision in the criminal case reveals these findings of the respondent court:

"All the foregoing expenses and disbursements were never overthrown by the prosecution. All that the government prosecutor tried to show was this—the whole of what the accused did in disbursing the funds covered by the vales, chits, cash invoices, etc., etc., were not in accordance with auditing rules and regulations. There is no doubt about this. The accused practically brushed aside and ignored all guidelines enunciated by the General Auditing Office regarding disbursement of government funds. In Exhibit 'Q' (prosecution) Regional Supervising Auditor Brodit in a report to the Director of the Bureau of Vocational Education, Manila, mentioned the illegality of the accused's disbursements as contrary to section 17 of Republic Act 992. This Republic Act, Exhibit 'S' was presented by the prosecuting Provincial Fiscal, perhaps to bolster Exhibit 'Q.'

'The Court, as it has already intimated anteriorly, believes that the accused's acts offended the Republic Act above-mentioned and every other auditing rule or regulation in the country. . . .' (pp. 104-105, Rollo.)

'From what has been shown by the accused, his failure to record his collections, was for a good purpose and not to defraud the government. He kept the cash collections in his possession in order that he may have the ready amount to spend for emergency needs of the school. This might be against the instructions to him or offensive to rules and regulations of the General Auditing Office but it is patent that criminal intent cannot be inferred from such actuation.' (pp. 110-111, Rollo).

'. . . As the prosecution evidence stands, same considered void all the acts of the accused but the vales, chits, cash slips, vouchers, travel expenses showing that funds represented by them have been expended for the use, operation, improvement, maintenance of the school's projects, like the fishpond, piggery, sugar cane plantation, school construction materials, spare parts for the school's machines, representation expenses for visiting bureau officials, etc., etc., makes open to doubt the contention that simply because they were not covered with official receipts they are illegal and cannot be validated. The Court doubts that that contention closes all avenues to validate and legalize the questioned private documents presented by the accused. As the Court looks at the matter before it, the evidence of the prosecution is not enough to establish the guilt of the accused as it opens an avenue leading to a belief that the accused might be innocent. The evidence presented by the State did not remove the possibility that Romeo Arceño might not be guilty of the offense charged. . . .'" (pp. 117-118, Rollo; pp. 9-11, Appellant's Brief, p. 239, Rollo.)

According to the respondent court itself, it was admitted by Arceño that he did not post his collections in his

books of account nor deposited them with the National Treasury as required by the rules and regulations. Worse, he disbursed them without prior approval of the Auditor. The decision did not absolve Arceño or free him from responsibility insofar as his accountability as Cashier and Disbursing Officer is concerned. The acquittal, in the words of the trial court, was because "The evidence of the prosecution is not enough to establish the guilt of the accused as it opens an avenue leading to a belief that the accused might be innocent." Indeed, the dispositive portion of the decision in the criminal case did not state that the facts upon which his responsibility as an accountable officer is based were non-existent. Instead it expressly and categorically declares that his acquittal was upon the finding that "the evidence of the prosecution was not sufficient to establish the guilt of the accused beyond reasonable doubt."

It is also to be noted that while the subject-matter of the malversation case was the amount of P6,619.34, the sum sought to be recovered in the civil action totalled P13,790.70. The latter amount included the five items involved in the criminal action, as well as the additional sum of P7,170.31 representing the income of the school from its various projects for which the accused failed to issue official receipts. (pp. 46-47, Rollo.) At least insofar as the recovery of the aforesaid amount is concerned, therefore, the private respondent cannot place in defense his acquittal in the criminal action which did not involve said amount.

Even insofar as the amount of P6,619.34 which constituted the subject-matter of the criminal charge of malversation is concerned, the acquittal of the private respondent in the criminal case would not constitute an obstacle to the filing of Civil Case No. V-3339. The finding by the respondent court that he spent said sum for and in the interest of the Capiz Agricultural and Fishery School and not for his personal benefit is not a declaration that the fact upon which Civil Case No. V-3339 is based does not exist. The civil action barred by such a declaration is the civil liability arising from the offense charged, which is the one impliedly instituted with the criminal action. (Section 1, Rule 111, Rules of Court.) Such a declaration would not bar a civil action filed against an accused who had been acquitted in the criminal case if the criminal action is predicated on factual or legal considerations other than the commission of the offense charged. A person may be acquitted of malversation where, as in the case at bar, he could show that he did not misappropriate the public funds in his possession, but he could be rendered liable to restore said funds or at least to make a proper accounting thereof if he shall spend the same for purposes which are not authorized nor intended, and in a manner not permitted by applicable rules and regulations.

WHEREFORE, the order of the respondent court dismissing Civil Case No. V-3339 is hereby REVERSED and SET ASIDE. The motion to dismiss filed by the private respondent shall be deemed DENIED. Costs against the private respondent.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Relova and Gutierrez, Jr., JJ., concur.
Plana, J., on leave.

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