

MAXIMO MARCIA, AMALIA MOJICA, TIRSO YAP, DAMIANA MARCIA, EDGAR MARCIA, AND RENATO YAP, PETITIONERS, VS. COURT OF APPEALS, FELARDO PAJE, AND VICTORY LINER, INC., RESPONDENTS.

G.R. No. L-34529. January 27, 1983

Ponente: RELOVA, J.

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RELOVA, J.:

Appeal by certiorari from the decision of the Court of Appeals affirming the judgment of the Court of First Instance of Rizal, which dismissed the complaint filed by the petitioners against private respondents in the concept of an independent civil action for damages for physical injuries resulting from reckless imprudence.

On December 23, 1956, in the municipality of Lubao, Pampanga, a passenger bus operated by private respondent Victory Liner, Inc. and driven by its employee, private respondent Felardo Paje, collided with a jeep driven by Clemente Marcia, resulting in the latter's death and in physical injuries to herein petitioners, Edgar Marcia and Renato Yap. Thereupon, an information for homicide and serious physical injuries thru reckless imprudence was filed against Felardo Paje in the Court of First Instance of Pampanga (Criminal Case No. 2745).

On January 23, 1957, an action for damages (Civil Case. No. 4425) was filed in the Court of First Instance of Rizal by Edgar Marcia and Renato Yap, together with their respective parents, against the Victory Liner, Inc. and Felardo Paje, alleging that the mishap was due to the reckless imprudence and negligence of the latter in driving the passenger bus.

While said Civil Case No. 4425 was in progress in the Court of First Instance of Rizal, the criminal action proceeded in the Court of First Instance of Pampanga (Criminal Case No. 2745). The accused Felardo Paje was convicted of the offense charged. However, on appeal to the Court of Appeals, he was acquitted in a decision promulgated on November 9, 1962, based on the findings, to wit:

"1. That the Victory Liner bus left its post, kilometer post no. 156, in San Marcelino, Zambales, at about 2:00 A.M.;

"2. That on the highway at Lubao, Pampanga, between Posts Nos. 83 and 84, the appellant driver thereof, saw a cargo truck parked in the middle of the right lane of the road to Manila, without lights;

"3. That appellant slackened the speed of his truck from 60 km. p.h. to 35 or 40 km. p.h. in order to pass said truck;

"4. That the appellant did not see the oncoming jeep until it swerved to the left, preparatory to passing the parked truck;

"5. That the jeep was still far so appellant attempted to pass the truck but before he could do so, the jeep came very fast at the center of the road and out of its lane.

"6. That the passengers of the bus shouted at the appellant to bring the bus to the side so as to avoid a frontal collision with the jeep, and appellant brought his bus to the right shoulder of the road going to Bataan;

"7. That the jeep driven by the deceased Clemente Marcia was running at a fast pace for which reason the driver lost control and veered sharply to the right shoulder of the road and crashed into the bus, parked thereat a few seconds before.

"8. That appellant was not speeding, was diligent, and hence, not liable for the collision which at the least, was a fortuitous event for which no one was responsible."

and the conclusion that "CRIMINAL NEGLIGENCE is WANTING in this case, and that appellant was NOT even guilty of CIVIL NEGLIGENCE. Insofar as appellant was concerned, it was a case of PURE ACCIDENT."

As a consequence, herein private respondents, defendants in Civil Case No. 4425 of the Court of First Instance of Rizal, moved for the dismissal of the complaint invoking the decision of the Court of Appeals acquitting Felardo Paje and citing Section 1(d), Rule 107 of the Rules of Court (now Section 3(c), Rule 111 of the New Rules of Court), which reads:

"SECTION 1. Rules governing civil actions arising from offenses.—Except as otherwise provided by law, the following rules shall be observed:

.....

"(d) 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 the other cases, the persons 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 damages suffered."

The trial court denied the motion to dismiss and, thereafter, continued to hear defendants' (herein private respondents) evidence. The following were presented as defendants' evidence in chief:

"(a) the whole record of Criminal Case No. 2745 of the Court of First Instance of Pampanga in which defendant Felardo Paje was by reason of the occurrence prosecuted criminally and convicted of homicide with serious physical injuries thru reckless imprudence;

"(b) the decision of the Court of Appeals in CA-G.R. No. 01691-Cr, acquiting the accused; and

"(c) copy of the brief of the said defendant as accused-appellant in the said Court of Appeals case."

On August 10, 1966, the Court of First Instance of Rizal rendered a decision dismissing plaintiffs' complaint against the defendants Victory Liner, Inc. and Felardo Paje, without pronouncement as to costs.

Petitioners appealed the case to the Court of Appeals (CA-GR No. 38964-R) alleging that the acquittal of Paje in the criminal action for homicide and serious physical injuries thru reckless imprudence "is not a ground for dismissing the complaint in the instant civil action; that the instant civil action is entirely separate and distinct from the criminal action and shall proceed independently of the criminal prosecution, so that whatever may have been the result of the criminal action is irrelevant to this civil action; that Section 2 of Rule 111 of the Rules of Court and not Section 3, paragraph (c) of the said rule applies; that the statement in the decision of the Court of Appeals in the criminal action that defendant Paje as accused therein was not guilty of civil negligence is without the jurisdiction of the said Court to make and is to be completely disregarded as an extraneous, officious and void statement which cannot affect in any way the instant civil action; that the records of the criminal action against defendant Paje are inadmissible evidence; that it has been established in the case at bar, not only by

preponderance of evidence but by uncontradicted, conclusive evidence that petitioners suffered damages as a proximate result of the negligence of respondent Paje; and that it has been established, not only by preponderance of evidence but by uncontradicted, conclusive evidence, that the damages suffered by petitioners as a result of the negligence of private respondents is in the amount of P250,817.96, and that the latter should be sentenced, jointly and severally, to pay the same to petitioners."

In the meantime, the heirs of Clemente Marcia who, as aforesaid, died as a result of the collision, instituted a separate civil action in the Court of First Instance of Rizal (Civil Case No. 6880) for damages based on the alleged reckless imprudence of bus driver Felardo Paje, praying that the driver and the Victory Liner, Inc. be ordered to pay jointly and severally the amount of damages claimed. The complaint of the heirs of Clemente Marcia was dismissed by the trial court. Appeal on questions of law was taken to this Court (Laura Corpus, et al. vs. Felardo Paje, et al. 28 SCRA 1062) which, however, affirmed the order for the reason, among others, that "(1) The acquittal of the defendant Felardo Paje by the Court of Appeals in the criminal action on the ground that the reckless imprudence or criminal negligence charged against him did not exist and that the collision was a case of pure accident, was a bar to the civil action for damages for the death of Clemente Marcia, which action was based upon the same criminal negligence of which the defendant Felardo Paje was acquitted in the criminal action."

Following the ruling of this Court in the Corpus vs. Paje decision, respondent Court of Appeals held that the private respondents cannot be held civilly liable after it had ruled in the criminal action that negligence was wanting and that the collision was a case of pure accident.

Dissatisfied with the decision, petitioners have come to Us alleging that the Court of Appeals erred:

I.

"IN NOT HOLDING THAT PETITIONERS' INSTANT CIVIL ACTION FOR DAMAGES AGAINST PRIVATE RESPONDENTS FOR PHYSICAL INJURIES RESULTING FROM NEGLIGENCE IS AN INDEPENDENT ONE, ENTIRELY SEPARATE AND DISTINCT FROM THE CRIMINAL ACTION, UNDER THE PROVISIONS OF ARTICLES 33, 2176 AND 2177 OF THE NEW CIVIL CODE AND SECTION 2 OF RULE 111 OF THE RULES OF COURT, AND IN INSTEAD HOLDING THAT THE INSTANT ACTION IS NOT AMONG THE INDEPENDENT CIVIL ACTIONS AUTHORIZED BY THE SAID PROVISIONS.

II.

"IN NOT HOLDING THAT THE ACQUITTAL OF RESPONDENT FELARDO PAJE, DRIVER OF RESPONDENT VICTORY LINER, INC., IN THE CRIMINAL ACTION BASED ON THE SAID PHYSICAL INJURIES AND NEGLIGENCE IS ENTIRELY IRRELEVANT TO THE INSTANT CIVIL ACTION FOR DAMAGES BY VIRTUE OF THE AFORECIATED PROVISIONS OF THE NEW CIVIL CODE AND THE RULES OF COURT, AND IN INSTEAD HOLDING THAT THE SAID ACQUITTAL IS A BAR TO THE INSTANT CIVIL ACTION UNDER SECTION 3(c) OF RULE 111 AND SECTION 49(c) OF RULE 39 OF THE RULES OF COURT.

III.

"IN NOT HOLDING THAT THE EVIDENCE ADDUCED BY PRIVATE RESPONDENTS IN THE INSTANT CIVIL ACTION FOR DAMAGES, CONSISTING OF THE RECORDS OF THE CRIMINAL ACTION IN THE TRIAL COURT, THE DECISION OF THE COURT OF APPEALS ACQUITTING RESPONDENT PAJE AND THE COPY OF THE BRIEF OF THE SAID RESPONDENT AS ACCUSED-APPELLANT, ARE INADMISSIBLE IN THE INSTANT CIVIL ACTION FOR DAMAGES.

IV.

"IN NOT HOLDING THAT IT HAS BEEN ESTABLISHED IN THE CASE AT BAR, NOT ONLY BY PREPONDERANCE OF EVIDENCE BUT BY UNCONTRADICTED, CONCLUSIVE EVIDENCE, THAT PETITIONERS SUFFERED DAMAGES AS A PROXIMATE RESULT OF THE NEGLIGENCE OF RESPONDENT PAJE.

V.

"IN NOT HOLDING THAT IT HAS BEEN ESTABLISHED, NOT ONLY BY PREPONDERANCE OF EVIDENCE BUT BY UNCONTRADICTED, CONCLUSIVE EVIDENCE, THAT THE DAMAGES SUFFERED BY PETITIONERS AS A RESULT OF THE NEGLIGENCE OF DEFENDANTS IS IN THE AMOUNT OF P250,817.96, AND IN NOT SENTENCING PRIVATE RESPONDENTS JOINTLY AND SEVERALLY TO PAY THE SAME TO PETITIONERS."

It is the stand of herein petitioners that Section 2, Rule 111 of the Rules of Court, not Section 3(c) thereof, should apply in the case at bar.

"Sec. 2. Independent civil action.— In the cases provided for in Articles 31, 32, 33, 34 and 2177 of the Civil Code of the Philippines, an independent civil action entirely separate and distinct from the criminal action, may be brought by the injured party during the pendency of the criminal case, provided the right is reserved as required in the preceding section. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence."

We do not agree. Section 2 of Rule 111 merely refers to the institution of an independent civil action without waiting for the filing or termination of the criminal action and requires only preponderance of evidence to prosper and not proof beyond reasonable doubt as required for conviction in criminal cases. However, an acquittal based on the finding that the facts upon which civil liability did not exist, bars the filing of an independent civil action if it is based on the crime. As early as 1952, We have held in the case of *Tan vs. Standard Vacuum Oil Company*, 91 Phil. 672, that "the acquittal of the accused from the criminal charge will not necessarily extinguish the civil liability unless the court declares in the judgment that the fact from which the civil liability might arise did not exist. Where the court states 'that the evidence throws no light on the cause of fire and that it was an unfortunate accident for which the accused cannot be held responsible,' this declaration fits well into the exception of the rule which exempts the accused, from civil liability." Likewise, in *Albornoz vs. Albornoz*, 98 Phil. 785, it was the ruling that "where the judgment in a criminal action contains an express declaration that the basis of claimant's action did not exist, the latter's action for civil liability is barred under section (d) Rule 107 of the Rules of Court." And, in *De Mesa vs. Prieta*, 24 SCRA 582, this Court, speaking through then Chief Justice Roberto Concepcion, ruled that "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 (Sec. 3[c], Rule 111, Rules of Court.)"

As held in *Corpus vs. Paje*, *supra*, reckless imprudence or criminal negligence is not one of the three crimes mentioned in Article 33 of the Civil Code, which provides:

"ART. 33. In cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence."

The above article speaks only of defamation, fraud and physical injuries. The injuries suffered by herein petitioners were alleged to be the result of criminal negligence; they were not inflicted with malice. Hence, no independent civil action for damages may be instituted in connection therewith. Further, Section 3(c), Rule 111 of

the Rules of Court states that "(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." Otherwise stated, unless the act from which the civil liability arises is declared to be non-existent in the final judgment, the extinction of the criminal liability will not carry with it the extinction of the civil liability. Thus, if a person is charged with homicide and successfully pleaded self-defense, his acquittal by reason thereof will extinguish his civil liability. He has not incurred any criminal liability. On the other hand, if his acquittal is, for instance, due to the fact that he was not sufficiently identified to be the assailant, a civil action for damages may be maintained. His acquittal is not due to non-existence of the crime from which civil liability might arise, but because he was not, in the eyes of the court, sufficiently identified as the perpetrator of the crime.

In *People vs. Buan*, 22 SCRA 1383, this Court, speaking through Mr. Justice J. B. L. Reyes, said that "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 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."

The charge against Felardo Paje was not for homicide and physical injuries but for reckless imprudence or criminal negligence resulting in homicide (death of Clemente Marcia) and physical injuries suffered by Edgar Marcia and Renato Yap. They are not one of the three (3) crimes mentioned in Article 33 of the Civil Code and, therefore, no civil action shall proceed independently of the criminal prosecution.

The case of *Laura Corpus vs. Felardo Paje* (supra) is the same as the case at bar, the only difference being the party-plaintiffs or petitioners. Clemente Marcia died, while Edgar Marcia and Renato Yap suffered physical injuries in the same accident. The heirs of Clemente Marcia filed Civil Case No. 6880 in the Court of First Instance of Rizal against herein respondents. The case was dismissed and appealed directly to this Court. The order appealed from was affirmed, as recorded in *Laura Corpus vs. Felardo Paje*, 28 SCRA 1062.

The case at bar (Civil Case No. 4425) was filed by Edgar Marcia and Renato Yap against the same defendants in the Court of First Instance of Rizal. After trial, the case was dismissed and affirmed by the Court of Appeals. It is now before Us on appeal by certiorari from the said decision.

Relative to the admissibility of the documents, to wit; (a) the records of the criminal case against Paje, (b) the decision of the Court of Appeals acquitting the latter; and (c) copy of the brief of the respondent Paje as accused-appellant, suffice it to say that since petitioners' cause of action is based on the alleged recklessness and imprudence of respondent Paje, it necessarily follows that his acquittal by the Court of Appeals and its declaration that the mishap was "pure accident" are relevant and material evidence. In fact, the lower court may even take judicial notice of the decision of the Court of Appeals in said criminal case.

Finally, with respect to the findings of fact of the Court of Appeals, well settled is the rule that the same are final and cannot be disturbed by Us, particularly where they are based, as they are in the case at bar, upon substantial evidence.

WHEREFORE, the decision appealed from is hereby **AFFIRMED** in toto. With costs against the petitioners.

SO ORDERED.

Teehankee (Chairman), Melencio-Herrera, Plana, Vasquez and Gutierrez, Jr., JJ., concur.

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