

ANITA TAN, PLAINTIFF AND APPELLANT, VS. STANDARD VACUUM OIL CO., JULITO STO. DOMINGO, IGMIDIO RICO, AND RURAL TRANSIT CO., DEFENDANTS AND APPELLEES.*G.R. No. L-4160. July 29, 1952*

Ponente: BAUTISTA ANGELO, J.

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Anita Tan is the owner of a house of strong materials located in the city of Manila, Philippines. On May 3, 1949, the Standard Vacuum Oil Company ordered the delivery to the Rural Transit Company at its garage at Rizal Avenue extension, city of Manila, of 1,925 gallons of gasoline using a gasoline tank-truck trailer. The truck was driven by Julito Sto. Domingo, who was helped by Igmidio Rico. While the gasoline was being discharged to the underground tank, it caught fire, whereupon Julito Sto. Domingo drove the truck across the Rizal Avenue extension and upon reaching the middle of the street he abandoned the truck which continued moving to the opposite side of the street causing the buildings on that side to be burned and destroyed. The house of Anita Tan was among those destroyed and for its repair she spent P12,000.

As an aftermath of the fire, Julito Sto. Domingo and Igmidio Rico were charged with arson through reckless imprudence in the Court of First Instance of Manila where, after trial, both were acquitted, the court holding that their negligence was not proven and the fire was due to an unfortunate accident.

Anita Tan then brought this action against the Standard Vacuum Oil Company and the Rural Transit Company, including the two employees, seeking to recover the damages she has suffered for the destruction of her house.

Defendants filed separate motions to dismiss alleging in substance that (a) plaintiff's action is barred by a prior judgment and (b) plaintiff's complaint states no cause of action; and this motion having been sustained, plaintiff elevated the case to this Court imputing eight errors to the court a quo.

The record discloses that the lower court dismissed this case in view of the acquittal of the two employees of defendant Standard Vacuum Oil Company who were charged with arson through reckless imprudence in the Court of First Instance of Manila. In concluding that the accused were not guilty of the acts charged because the fire was accidental, the court made the following findings: "the accused Igmidio Rico cannot in any manner be held responsible for the fire to the three houses and goods herein above mentioned. He was not the cause of it, and he took all the necessary precautions against such contingency as he was confronted with. The evidence throws no light on the cause of the fire. The witnesses for the prosecution and for the defense testified that they did not know what caused the fire. It was an unfortunate accident for which the accused Igmidio Rico cannot be held responsible." And a similar finding was made with respect to the other accused Julito Sto. Domingo. The record also discloses that the information filed against the accused by the Fiscal contains an itemized statement of the damages suffered by the victims, including the one suffered by Anita Tan, thereby indicating the intention of the prosecution to demand indemnity from the accused in the same action, but that notwithstanding this statement with respect to damages, Anita Tan did not make any reservation of her right to file a separate civil action against

the accused as required by the Rules of Court Rule 107, section 1-(a). As Anita Tan failed to make this reservation, and the accused were acquitted, the lower court ruled that she is now barred from filing this action against the defendants.

This ruling in so far as defendants Julito Sto. Domingo and Igmidio Rico are concerned is oorrect. The rule is 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" (Rule 107, section 1-d, Rules of Court). This provision means that the acquittal of the accused from the criminal charged 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. Here it is true that Julito Sto. Domingo and Igmidio Rico were acquitted, the court holding that they were not responsible for the fire that destroyed the house of the plaintiff,—which as a rule will not necessarily extinguish their civil liability,—but the court went further by stating 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. In our opinion, this declaration fits well into the exception of the rule which exempts the two accused from civil liability. When the court acquitted the accused because the fire was due to an unfortunate accident it actually said that the fire was due to a fortuitous event for which the accused are not to blame. It actually exonerated them from civil liability.

But the case takes on a different aspect with respect to the other defendants. For one thing, the principle of *res judicata* cannot apply to them for the simple reason that they were not included as co-accused in the criminal case. Not having been included in the criminal case they cannot enjoy the benefit resulting from the acquittal of the accused. This benefit can only be claimed by the accused if a subsequent action is later taken against them under the revised Penal Code. And this action can only be maintained if proper reservation is made and there is no express declaration that the basis of the civil action has not existed. It is, therefore, an error for the lower court to dismiss the case against these two defendants more so when their civil liability is predicated on facts other than those attributed to the two employees in the criminal case.

Take, for instance, the case of the Standard Vacuum Oil Company. This company is sued not precisely because of supposed negligent acts of its two employees Julito Sto. Domingo and Igmidio Rico but because of acts of its own which might have contributed to the fire that destroyed the house of the plaintiff. The complaint contains definite allegations of negligent acts properly attributable to the company which if proven and not refuted may serve as basis of its civil liability. Thus, in paragraph 5 of the first cause of action, it is expressly alleged that this company, through its employees, failed to take the necessary precautions or measures to insure safety and avoid harm to persons and damage to property as well as to observe that degree of care, precaution and vigilance which the circumstances justly demanded, thereby causing the gasoline they were unloading to catch fire. The precautions or measures which this company has allegedly failed to take to prevent fire are not clearly stated, but they are matters of evidence which need not now be determined. Suffice it to say that such allegation furnishes enough basis for a cause of action against this company. There is no need for the plaintiff to make a reservation of her right to file a separate civil action, for as this court already held in a number of cases, such reservation is not necessary when the civil action contemplated is not derived from the criminal liability but one based on *culpa aquiliana* under the old Civil Code (articles 1902 to 1910). These two acts are separate and distinct and should not be confused one with the other. Plaintiff can chose either (*Asuncion Parker vs. Hon. A. J. Panlilio*, supra, p. 1.)

The case of the Rural Transit Co. is even more different as it is predicated on a special provision of the Revised Penal Code. Thus, article 101, Rule 2, of said Code provides:

"Art. 101. Rules regarding civil liability in certain cases.—The exemption from criminal liability established in subdivisions 1, 2, 3, 5 and 6 of article 12 and in subdivision 4 of article 11 of this Code does not include

exemption from civil liability, which shall be enforced subject to the following rules:

* * * * *

"Second. In cases falling within subdivision 4 of article 11, the persons for whose benefit the harm has been prevented shall be civilly liable in proportion to the benefit which they may have received."

And on this point, the complaint contains the following averments:

"3. That after the corresponding trial the said defendants were acquitted and defendant Julito Sto. Domingo was acquitted, on the ground that he so acted causing damage to another in order to avoid a greater evil or injury, under article 11, paragraph 4 of the Revised Penal Code, as shown by the pertinent portion of the decision of this Honorable Court in said case, dated October 28, 1949, which reads as follows:

'Under the foregoing facts, there can be no doubt that had the accused Julito Sto. Domingo not taken the gasoline tank-truck trailer out in the street, a bigger conflagration would have occurred in Rizal Avenue Extension, and, perhaps, there might have been several deaths, and bearing in mind the provisions of Article 11, paragraph 4 of the Revised Penal Code, the accused Julito Sto. Domingo incurred no criminal liability.'

"4. That it was consequently the defendant Rural Transit Co., from whose premises the burning gasoline tank-truck trailer was driven out by defendant Julito Sto. Domingo in order to avoid a greater evil or injury, for whose benefit the harm has been prevented under article 101, second subsection of the Revised Penal Code."

Considering the above quoted law and facts, the cause of action against the Rural Transit Company can hardly be disputed, it appearing that the damage caused to the plaintiff was brought about mainly because of the desire of driver Julito Sto. Domingo to avoid greater evil or harm, which would have been the case had he not brought the tank-truck trailer to the middle of the street, for then the fire would have caused the explosion of the gasoline deposit of the company which would have resulted in a conflagration of much greater proportion and consequences to the houses nearby or surrounding it. It cannot be denied that this company is one of those for whose benefit a greater harm has been prevented, and as such it comes within the purview of said penal provision. The acquittal of the accused cannot, therefore, be deemed a bar to a civil action against this company because its civil liability is completely divorced from the criminal liability of the accused. The rule regarding reservation of the right to file a separate civil action does not apply to it.

Wherefore, the order appealed from is hereby modified as follows: it is affirmed with regard to defendants Julito Sto. Domingo and Igmidio Rico; but it is reversed with regard to defendants Standard Vacuum Oil Company and Rural Transit Company, with costs.

Pablo, Bengzon, Padilla, Tuason, and Labrador, JJ., concur.

Paras, C. J., concurs in the result.

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