

**JOSE M. LONTOC, PLAINTIFF-APPELLANT, VS. MD TRANSIT &
TAXI CO., INC. AND IGNACIO DELA CRUZ, DEPENDANTS-APPELLEES.**

G.R. No. L-48949. April 15, 1988

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This case was certified to this Court by the Court of Appeals on the ground that the issues raised involve pure questions of law which are within this Court's exclusive jurisdiction.[**]

On October 31, 1970 at about 8:30 in the morning a vehicular accident happened along Taft Avenue, Manila, involving a Holden car (Kingswood Plate No. 23-80 '70) driven by Rodolfo Defeo and owned by Jose Lontoc and an MD Bus bearing Plate No. 48-1 (4-PUB-70) driven by Ignacio dela Cruz.

As a result of this accident, Ignacio dela Cruz, the driver of the MD Bus was charged with the crime of damage to property with physical injuries thru reckless imprudence before the Court of First Instance of Manila. The case was docketed as Crim. Case No. 70-24847.

After trial on the merits, the court rendered judgment "finding the accused not guilty, because his guilt has not been proven beyond reasonable doubt and is hereby acquitted".

Jose Lontoc, the owner of the Holden car then filed a complaint for recovery of damages against MD Transit and Taxi Co., Inc., and Ignacio dela Cruz before the Court of First Instance of Rizal, Seventh Judicial District (Quezon City). The case was docketed as Civil Case No. Q-19145.

Instead of filing an answer, the defendants filed a motion to dismiss on the ground "that the complaint fails to state a sufficient cause of action and that the cause of action as alleged in the complaint is barred by a prior final judgment rendered in Criminal Case No. 3774 entitled People of the Philippines v. Ignacio dela Cruz y Pine and rendered by Branch XIX of the Court of First Instance of Manila and which in the same case plaintiff ventilated his claim for damages against the defendants."

The trial court then issued an order dismissing the civil case because there was no reservation made by the complainant to file a separate civil action and the complainant through counsel intervened in the prosecution of the criminal case which led to the acquittal of the accused.

The plaintiff appealed the order to the Court of Appeals. As stated earlier, the appellate court certified the case to this Court on the ground that the issues raised are purely questions of law.

The facts are not in dispute. The issues raised are: 1) whether or not the plaintiff-appellant's non-reservation to file a separate action for damages is fatal to this action for damages and 2) whether or not the judgment of acquittal of Ignacio dela Cruz in the criminal case wherein through a private prosecutor, the plaintiff-appellant presented evidence to prove damages is a bar to the institution of a separate civil action for damages against both the operator of MD Transit and Taxi Co., Inc., and its driver, Ignacio dela Cruz.

The complaint in Civil Case No. Q-19145 alleged that defendant Ignacio dela Cruz, while driving an MD bus operated by his co-defendant MD Transit and Taxi Co., "in a careless, reckless, imprudent manner along Taft Avenue, Manila south bound to Pasay City, violently struck and bumped the rear right portion of a Holden car owned by the plaintiff causing actual, compensatory and exemplary damages". With the allegation of negligence against the driver, and that of an employer-employee relationship between him and his co-defendant MD Transit and Taxi Co., the complaint is undoubtedly based as quasi delict upon Article 2180 of the Civil Code (Poblete v. Fabros, 93 SCRA 200).

Under the facts of this case, the failure of the plaintiff-appellant to reserve his right to file a separate civil case is not fatal (Mendoza v. Arrieta, 91 SCRA 113).

The fact that the plaintiff-appellant intervened in the criminal case did not bar him from filing a separate civil action for damages especially considering that the accused in the criminal case, Ignacio dela Cruz, was acquitted "because his guilt was not proven beyond reasonable doubt" (underlining supplied).

The two cases were anchored on two different causes of action. The criminal case was based solely on Ignacio dela Cruz's violation of Article 365 of the Penal Code. Any doubt as to the nature of the action is erased by the trial court's statement in Criminal Case No. 3774 that "The Court finds that the guilt of the accused has not been proven beyond reasonable doubt; that the owner of the bus is not included in this case being a criminal case" (underlining supplied). On the other hand, the complaint for damages was based on quasi-delict and both the driver and bus owner are defendants.

In view of the fact that defendant-appellee dela Cruz was acquitted on the ground that "his guilt was not proven beyond reasonable doubt, the plaintiff-appellant has the right to institute a separate civil action to recover damages from the defendants-appellants (See Mendoza v. Arrieta, 91 SCRA 113) The well-settled doctrine is that a person, while not criminally liable, may still be civilly liable. "The judgment of acquittal extinguishes the civil liability of the accused only when it includes a declaration that the facts from which the civil liability might arise did not exist". (Padilla v. Court of Appeals, 129 SCRA 558 cited in People v. Rogelio Ligon y Tria, et al., G. R. No. 74041, July 29, 1987; Filomeno Urbano v. Intermediate Appellate Court, G. R. No. 72964, January 7, 1988). The ruling is based on Article 29 of the Civil Code which provides:

"When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. x x x"

It is plain from the judgment in the criminal case that the aspect of civil liability was not passed upon and resolved.

WHEREFORE, the questioned order of the Court of First Instance of Quezon City is REVERSED and SET ASIDE. The case is REMANDED to the court of origin or its successor for further proceedings. No costs.

SO ORDERED.

Fernan, (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

[**] Since pure questions of law were raised, the Second Division of the Court of Appeals which included the present ponente refrained from arriving at any conclusions or decision in this case.

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