

FRANCISCO DIANA AND SOLEDAD DIANA, PLAINTIFFS AND APPELLANTS, VS. BATANGAS TRANSPORTATION CO., DEFENDANT AND APPELLEE.

G. R. No. L-4920. June 29, 1953

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

The present appeal stems from a case originally instituted in the Court of First Instance of Laguna wherein plaintiffs seek to recover from defendant as a party subsidiarily liable for the crime committed by an employee in the discharge of his duty the sum of P2,500 as damages, plus legal interest, and the costs of action.

The appeal was originally taken to the Court of Appeals but the case was certified to this court on the ground that it poses merely a question of law.

Plaintiffs are the heirs of one Florenio Diana, a former employee of the defendant. On June 21, 1945, while Florenio Diana was riding in Truck No. 14, belonging to the defendant, driven by Vivencio Bristol, the truck ran into a ditch at Bay, Laguna, resulting in the death of Florenio Diana and other passengers. Subsequently, Vivencio Bristol was charged and convicted of multiple homicide through reckless imprudence wherein, among other things, he was ordered to indemnify the heirs of the deceased in the amount of P2,000. When the decision became final, a writ of execution was issued in order that the indemnity may be satisfied but the sheriff filed a return stating that the accused had no visible leviable property. The present case was started when defendant failed to pay the indemnity under its subsidiary liability under article 103 of the Revised Penal Code. The complaint was filed on October 19, 1948 (civil case No. 9221).

On December 13, 1948, defendant filed a motion to dismiss on the ground that there was another action pending between the same parties for the same cause (civil case No. 8023 of the Court of First Instance of Laguna) in which the same plaintiffs herein sought to recover from the same defendant the amount of P4,500 as damages resulting from the death of Florenio Diana who died while on board a truck of defendant due to the negligent act of the driver Vivencio Bristol. This first action was predicated on culpa aquiliana.

On December 16, 1948, plaintiffs filed a written opposition to the motion to dismiss. On February 3, 1949, the lower court, having found the motion well founded, dismissed the complaint, without special pronouncement as to costs; and their motion for reconsideration having been denied, plaintiffs took the present appeal.

The only question to be determined is whether the lower court correctly dismissed the complaint on the sole ground that there was another action pending between the same parties for the same cause under Rule 8, section 1(d) of the Rules of Court.

The determination of this issue hinges on the proper interpretation of Rule 8, section 1(d) which allows the dismissal of a case on the ground that "there is another action pending between the same parties for the same cause." Former Chief Justice Moran, commenting on this ground, says: "In order that this ground may be invoked,

there must be between the action under consideration and the other action, (1) identity of parties, or at least such as representing the same interest in both actions; (2) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (3) the identity on the two preceding particulars should be such that any judgment which may be rendered on the other action will, regardless of which party is successful, amount to res adjudicata in the action under consideration." [I Moran, Comments on the Rules of Court, (1952), p. 168.]

There is no doubt with regard to the identity of parties. In both cases, the plaintiffs and the defendant are the same. With regard to the identity of reliefs prayed for, a different consideration should be made. It should be noted that the present case (civil case No. 9221) stems from a criminal case in which the driver of the defendant was found guilty of multiple homicide through reckless imprudence and was ordered to pay an indemnity of P2,000 for which the defendant is made subsidiarily liable under article 103 of the Revised Penal Code, while the other case (civil case No. 8023) is an action for damages based on culpa aquiliana which underlies the civil liability predicated on articles 1902 to 1910 of the old Civil Code. These two cases involve two different remedies. As this court aptly said: "A quasi-delict or culpa aquiliana is a separate legal institution under the Civil Code, with a substantivity all its own, and individuality that is entirely apart and independent from a delict or crime. * * *. A distinction exists between the civil liability arising from a crime and the responsibility for cuasi-delitos or culpa extra-contractual. The same negligent act causing damages may produce civil liability arising from a crime under article 100 of the Revised Penal Code, or create an action for cuasi-delito or culpa extra-contractual under articles 1902-1910 of the Civil Code (Barredo vs. Garcia and Almario, 73 Phil., 607). The other differences pointed out between crimes and culpa aquiliana are:

"1. That crimes affect the public interest, while cuasi-delitos are only of private concern.

"2. That, consequently, the Penal Code punishes or corrects the criminal act, while the Civil Code, by means of indemnification, merely repairs the damage.

"3. That delicts are not as broad as quasi-delicts, because the former are punished only if there is a penal law clearly covering them, while the latter, cuasi-delitos, include all acts in which 'any kind of fault or negligence intervenes.'" (P. 611, supra.)

Considering the distinguishing characteristics of the two cases, which, involve two different remedies, it can hardly be said that there is identity of reliefs in both actions as to make the present case fall under the operation of Rule 8, section 1(d) of the Rules of Court. In other words, it is a mistake to say that the present action should be dismissed because of the pendency of another action between the same parties involving the same cause. Evidently, both cases involve different causes of action. In fact, when the Court of Appeals dismissed the action based on culpa aquiliana (civil case No. 8023), this distinction was stressed. It was there said that the negligent act committed by defendant's employee is not a quasi crime, for such negligence is punished by law. What plaintiffs should have done was to institute an action under article 103 of the Revised Penal Code (CA-G. R. No. 3632-R). And this is what plaintiffs have done. To deprive them now of this remedy, after the conviction of defendant's employee, would be to deprive them altogether of the indemnity to which they are entitled by law and by a court decision, which injustice it is our duty to prevent.

Wherefore, the order appealed from is reversed and the case is hereby remanded to the lower court for further proceedings. No pronouncement as to costs.

Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo and Labrador, JJ., concur.

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