

ROMUALDO F. DUMUK, PETITIONER, VS. HON. ANGEL A. DAQUIGAN, BERNARDO MIRANDA Y JUGAL AND THE PHILIPPINE NATIONAL RAILWAYS, RESPONDENTS.

G.R. No. L-47926. August 13, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The center of controversy in this case is whether or not a civil action that was filed arising from the acts or omissions subject of a separate criminal action had already prescribed or is pre-mature.

On March 2, 1962, private respondent was charged with the crime of serious physical injuries through reckless imprudence in an information that was filed in the Municipal Court of Bacnotan, La Union. An amended information was filed on October 17, 1969 charging private respondent Miranda with the higher category of serious physical injuries through reckless imprudence.

On November 20, 1969, pending trial of said respondent Miranda in the Municipal Court of Bacnotan, La Union, the petitioner who is the offended party in the case filed an express reservation to file a separate action as to the civil liability arising from the offense. In a decision rendered by the Municipal Court dated October 12, 1971 the private respondent was convicted of the offense charged. He appealed his conviction to the Court of First Instance.

Before any information could be filed by the provincial fiscal's office, the petitioner wrote the provincial fiscal on February 3, 1972 informing him that on account of the felony committed by the private respondent he suffered P100,000.00 damages and he requested the provincial fiscal to include the said damages in the information. He stated that the reason why he reserved his right to file a separate civil action for damages in the inferior court was because his claim was beyond the jurisdiction of said court.[1] Hence, on February 14, 1972 an information was filed by the fiscal for the same offense alleging therein the claim for actual, moral and exemplary damages in the amount of P100,000.00 of the petitioner.[2]

During the trial of said criminal case a private prosecutor appeared in behalf of petitioner who attempted to prove the damages suffered by petitioner but the trial court refused to receive the evidence on the civil aspect. Thus, in the decision of the trial court of October 14, 1977 private respondent was found guilty of the offense charged and sentenced to three months of arresto mayor and to pay the costs. It was also therein stated that the right to file a separate civil action for damages was reserved in favor of petitioner. The said decision was appealed by private respondent to the Court of Appeals.

Petitioner earlier filed a complaint for damages against private respondent and the Philippine National Railways (PNR) in the Court of First instance of La Union on August 17, 1977 arising from the criminal acts of private respondent on January 2, 1962 apparently because of the refusal of the trial court to receive evidence on the civil liability in the criminal case. An amended complaint was filed by petitioner which added as allegation that the defendant corporation failed to exercise care in the selection and supervision of its employees which was clearly

manifest in this case. In the answer of the defendants in said case the defense of prescription was interposed. The trial court, acting on the motions of respondents for a hearing on the affirmative defenses and after receiving the memoranda of the parties, issued an order on September 2, 1977 dismissing the complaint on the ground of prescription of action and/or for lack of cause of action.[3]

A motion for reconsideration filed by petitioner was denied in an order dated November 28, 1977. Hence, the herein petition for review on certiorari of the said orders of the trial court.

The main thrust of the appeal is to the effect that the trial court erred when it held that the filing of the civil action had prescribed and/or was otherwise premature.

In the questioned order it was ruled that if the civil liability is based on quasi-delict the period of prescription arises from the date the alleged quasi-delict was committed on January 2, 1962 and it prescribes in four (4) years in accordance with Article 1146 of the Civil Code, so the civil action has prescribed. On the other hand it also held that if the civil action arises from the criminal act which is impliedly instituted with the criminal action, the filing of the civil action is premature because the liability of respondent PNR is subsidiary. Petitioner must await final judgment in the criminal action against respondent Miranda before the civil action impleading respondent PNR may be instituted.

On the other hand petitioner contends that prescription has not set in that although he has made a reservation to file a separate civil action in the Municipal Court on November 20, 1969, when the information was filed in the Court of First Instance on February 14, 1972, it included the claim for civil liability of petitioner, thus the filing of the information tolled the running of the period of prescription. As such, only two years, four months and 25 days had expired.

Sections 1 and 2 of Rule 111 of the Rules of Court then in force provide as follows -

SECTION 1.- Institution of criminal and civil actions.- When a criminal action is instituted, the civil action for recovery of civil liability arising from the offense charged is impliedly instituted with the criminal action, unless the offended party expressly waives the civil action or reserves his right to institute it separately.

SECTION 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.

From the foregoing rules it is clear that once a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense is impliedly instituted with the criminal action. However, for damages arising under 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 in the criminal action.

In the present case when an information for the crime of serious physical injuries through reckless imprudence was filed on March 2, 1962 in the Municipal Court of Bacnotan, La Union, the civil action for recovery of civil liability arising from the offense was deemed impliedly instituted with the filing of said information and amended information thereafter. However, on November 20, 1969, the petitioner informed the inferior court in writing that he was making an express reservation to file a separate civil action as to the civil liability arising from the offense. Thus on October 12, 1971 when respondent Miranda was convicted by the municipal court, no damages were awarded to the petitioner.

When respondent Miranda appealed to the CFI, petitioner then wrote the provincial fiscal on February 3, 1972 asking that the damages that he suffered in the amount of P100,000.00 be included in the information explaining that he reserved his right to file a separate civil action in the municipal court because his claim exceeded the jurisdiction of the municipal court. Forthwith the provincial fiscal on February 14, 1972 filed an information which included the claim for damages of the petitioner.

The period of prescription within which to file a civil action as to the civil liability arising from the offense started to run on November 20, 1969 when the petitioner informed the municipal court in writing that he was reserving his right to file a separate civil action. It was interrupted upon the filing of the information in the CFI on February 14, 1972 alleging the claim for damages. On said date a period of only two (2) years, three (3) months and twenty-three (23) days more or less have lapsed then.

Obviously, at the time the information was filed the four-year prescriptive period for the action had not yet lapsed. Because of the refusal of the trial court to accept evidence of damages in the criminal case (perhaps because the express reservation of petitioner was still in the records of the case), a separate civil action was instituted by petitioner on August 17, 1976.

Consequently, in the criminal case, the trial court rendered judgment affirming the conviction of private respondent Miranda but recognizing the right of petitioner to file a separate civil action for damages.

From the foregoing set of facts, it is clear that the civil action instituted by the petitioner for damages arising from the offense has not prescribed. It was filed well within the period of prescription.

However, the civil action based on quasi-delict had prescribed. Petitioner did not reserve the filing of an independent civil action arising therefrom nor did he file the civil action within the four (4) year reglementary period. The acts complained of occurred on February 2, 1962 while the separate civil action for damages was filed by petitioner only on August 17, 1976 which was amended only on January 17, 1977 to include the claim for damages arising from quasi-delict. No doubt the civil action arising from quasi-delict had prescribed.

WHEREFORE, the petition is GRANTED. The questioned orders of the trial court dated September 2, 1972 and November 20, 1979 are hereby modified in that the civil action arising from the offense has not prescribed and must take its due course. However, the civil action based on quasi-delict had prescribed.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Annex D to Petition, page 34, Rollo.

[2] Annex E, page 35, Rollo.

[3] Pages 45 to 49, Rollo.

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