

ORLANDO LAGAZON, PLAINTIFF-APPELLANT, VS. VISIA P. REYES, DEFENDANT-APPELLEE.

G.R. No. L-41380. October 18, 1988

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

In its Resolution dated August 20, 1975 (p. 69, Rollo) in CA-G.R. No. 56483-R entitled, "ORLANDO LAGAZON, Plaintiff-Appellant, versus VISIA P. REYES, Defendant-Appellee", the Court of Appeals certified the said case to Us upon its findings that the assigned errors raise purely questions of law.

The antecedent facts are as follows:

On April 1, 1972, a passenger-type jeepney driven by Moises San Angel collided with a motorized tricycle driven by plaintiff-appellant, Orlando Lagazon, at San Gabriel, Macabebe, Pampanga. As a result thereof, the tricycle was damaged and Lagazon suffered injuries.

On April 25, 1972, Lagazon filed a criminal complaint (p. 25, Rollo) for damage to property and serious physical injuries thru reckless imprudence against San Angel, with the Municipal Court (now Municipal Circuit Trial Court) of Macabebe, Pampanga, which was docketed as Criminal Case No. 277.

On June 30, 1972, San Angel, upon being arraigned in the criminal case filed, entered the plea of guilty to the offense charged. On the same date, the Municipal Court rendered its decision (pp. 25-27, Rollo) wherein, inter alia, it stated:

xxx xxx xxx xxx xxx

"The damage caused in the commission of the crime and admitted by the accused is P604.00 and for this damage a fine should be imposed. The prosecution in this case reserved its right to institute a separate civil action for damages.

"WHEREFORE, this Court finds the accused guilty beyond reasonable doubt of the crime of Damage to Property and Serious Physical Injuries thru Reckless Imprudence, and hereby sentences him to suffer imprisonment of two (2) months of arresto mayor and to pay a fine of P604.00.

"SO ORDERED."

On January 11, 1973, Lagazon filed a civil complaint (pp. 21-24, Rollo) against the defendant-appellee, Visia P. Reyes, for damages with the Court of First Instance (now Regional Trial Court) of Pampanga which was docketed as Civil Case No. 3975 (29623). Lagazon alleged that Reyes was the lawful and registered owner of that vehicle driven by Moises San Angel on April 1, 1972; that Reyes was the employer of San Angel; that on the aforesaid date, San Angel drove his vehicle in a reckless and imprudent manner which resulted in damage to his (Lagazon) tricycle and injuries to his person; that as a consequence thereof, he filed a criminal complaint (docketed as Criminal Case No. 277) on April 25, 1972 against San Angel with the Municipal Court of Macabebe, Pampanga;

and that on June 30, 1972, San Angel pleaded guilty to the offense charged and was sentenced to suffer imprisonment of two (2) months of arresto mayor and to pay a fine of P604.00. He prayed that judgment be rendered ordering Reyes to pay to him P2,980.00 as actual and compensatory damages; P 3,000.00 as moral damages; P3,000.00 as attorney's fees; and the costs of suit.

At the initial hearing of the aforesaid civil case, counsel for Lagazon announced to the trial court that the complaint was filed against Reyes for the latter's liability under Article 103 of the Revised Penal Code based upon the conviction of San Angel in the criminal case filed with the Municipal Court of Macabebe, Pampanga, upon a plea of guilty (p. 39, Rollo).

On December 3, 1973, after a full-blown trial of the civil case, the trial court rendered its decision (pp. 31-42, Rollo). The court, inter alia, stated:

xxx xxx xxx xxx xxx

"In the instant case, which is pursued under the provisions of the Revised Penal Code, defendant's liability is only subsidiary, but Moises San Angel has not been sued in a civil action and his property has not been exhausted. Failing in this regard, there is no liability on the part of the employer, herein defendant Visia P. Reyes.

xxx xxx xxx xxx xxx

"WHEREFORE, in view of the foregoing consideration, judgment is hereby rendered in favor of the defendant Visia P. Reyes and against the plaintiff Orlando Lagazon, dismissing the instant complaint, without pronouncement as to costs. Defendant's counterclaim is likewise dismissed for lack of factual and legal basis.

"SO ORDERED."

On February 11, 1974, Lagazon filed a notice of appeal to the Court of Appeals.

In his brief dated June 23, 1975 (pp. 53-61, Rollo), Lagazon raised the following errors committed by the court a quo:

- The lower court erred in dismissing the complaint on pure technicality; and
- The lower court erred in not ordering motu proprio that the employee be impleaded as a party defendant.

Lagazon also announced to the Court of Appeals that on February 11, 1974 (the same date when his notice of appeal was filed), he filed a civil case for damages against Moises San Angel with the Court of First Instance of Pampanga; and that the said case was already submitted for decision by the same court.

On August 15, 1975, Lagazon filed a motion (pp. 67-68, Rollo) with the Court of Appeals to admit the decision dated June 14, 1975 of the Court of First Instance of Pampanga in Civil Case No. 73-59-M entitled, "Orlando Lagazon, Plaintiff, versus Moises San Angel, Defendant" (pp. 63-65, Rollo), as annex "A" to his brief, which the Court of Appeals granted in its Resolution dated August 20, 1975 (p. 69, Rollo). The dispositive portion of said decision reads:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant, ordering the defendant to pay to the plaintiff -

“(a) P2,980.00 as actual and compensa-tory damages;

“(b) P3,000,00 as moral damages;

“(c) P3,000.00 as attorney's fees; and

“(d) Costs of suit.

"Defendant's counter-claim is dismissed for lack of factual and legal basis.

"SO ORDERED."

The main issue to be resolved is whether or not it was still necessary to sue the employee, San Angel, with his employer, Reyes, for the latter's subsidiary liability under Article 103 of the Revised Penal Code.

A person criminally liable is also civilly liable. Upon the institution of the criminal action, the civil action for the recovery of the civil liability arising from the crime is also impliedly instituted unless waived, or the filing of the separate action therefor is reserved. Under Article 103 of the Revised Penal Code, the employer is subsidiarily liable for the adjudicated civil liability of his employee in the event of the latter's insolvency. The decision convicting an employee in a criminal case is binding and conclusive upon the defendant employer in a civil case filed to enforce the latter's subsidiary liability under the said article not only with regard to the former's (employee) civil liability but also with regard to its amount because the liability of an employer cannot be separated but follows that of his employee (*Miranda vs. Malate Garage and Taxicab*, 99 Phil. 670).

However, before the employer may be held subsidiarily liable for the adjudicated civil liability of his employee, certain facts must be proved. In *Ozoa vs. De Madula, et al.*, G.R. 62955, December 22, 1987, We held:

"But the foregoing statement does not exhaust the entirety of the rules relevant and applicable to the juridical situation under consideration. There is the additional precept, of which sight should not be lost because essential to due process, that before the employer's subsidiary liability is exacted, there must be adequate evidence establishing that (1) he is indeed the employer of the convict; (2) that he is engaged in some kind of industry; (3) the crime was committed by the employee in the discharge of his duties; and (4) execution against the employee is unsatisfied. The determination of these issues need not be done in a separate civil action. But a determination there must be, on the basis of evidence that the offended party and the employer may fully and freely present; and this may be done in the same criminal action at which the employee's liability, criminal and civil, has been pronounced. It may be done at a hearing set for that precise purpose, with due notice to the employer, as part of the proceeding for the execution of the judgment."

In the instant case, plaintiff-appellant, Lagazon reserved his right to institute a separate civil action while the criminal case filed against the employee, San Angel, was still pending before the Municipal Court of Macabebe, Pampanga. Accordingly, no civil liability was adjudged against San Angel after he pleaded guilty to the offense charged.

It is very clear, therefore, that when plaintiff-appellant, Lagazon, filed his complaint against the defendant-appellee, Reyes, on January 11, 1973, there was still no adjudicated civil liability of the latter's employee, San Angel. There is no ipso facto subsidiary liability of an employer under Article 103 where his employee has not been previously convicted of the offense charged and adjudged civilly liable. If the plaintiff-appellant desired to recover directly from the defendant-appellee in view of the apparent insolvency of the latter's employee, he should have included this employee in that complaint filed by him as a party defendant. By that process, the trial court could then render judgment holding the employee civilly liable in an amount previously determined by it and ordering the defendant-appellee, Reyes, to pay subsidiarily such amount in the event that the former is insolvent or is unable to satisfy the judgment (*Yumul vs. Julianio*, 72 Phil. 94).

Lagazon contends that instead of dismissing the complaint, the trial court should have ordered that San Angel be impleaded as a party defendant if it believed all along that the latter was an indispensable party in the civil action to enforce the subsidiary liability of Reyes under Article 103 of the Revised Penal Code.

This contention is impressed with merit. The court a quo should have ordered that San Angel be impleaded as a party defendant in accordance with Rule 3, Section 11, of the Rules of Court, which provides:

"Sec. 11. Misjoinder and non-joinder of parties. - Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately."

The aim of the rule is that all persons materially interested, either legally or beneficially, in the subject-matter of the suit, should be made parties to it in order that the whole matter in dispute may be determined once and for all in one litigation, thus avoiding multiplicity of suits (67 C.J.S. 939-940).

Ordinarily, the instant case should be remanded to the court a quo for further proceedings. However, such action is no longer necessary considering that a decision in Civil Case No. 73-59-M entitled, "Orlando Lagazon, Plaintiff, versus Moises San Angel, Defendant", was already rendered on June 14, 1975, finding San Angel civilly liable to Lagazon and ordering the former to pay the latter an amount by way of damages. In this connection, if Lagazon, by virtue of the said decision, had already recovered from San Angel the entire amount adjudged as the latter's civil liability, there would be no subsidiary liability on the part of Reyes to speak of. However, if there was no such recovery or where the recovery was only for a partial amount due to the insolvency of San Angel, and Lagazon desires to enforce Reyes' subsidiary liability for the entire amount or the remaining unpaid amount, as the case may be, he may take the proper steps towards that end by proving the requirements outlined in *Ozoa vs. De Madula, et al.*, supra, with the decision in Civil Case No. 73-59-M as the basis therefor.

ACCORDINGLY, the questioned Decision of the Trial Court is hereby SET ASIDE. No costs.

SO ORDERED.

Narvasa, Cruz, Gancayco, and Grino-Aquino, JJ., concur.

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