

RUBEN MANIAGO, PETITIONER, VS. THE COURT OF APPEALS (FIRST DIVISION), HON. RUBEN C. AYSON, IN HIS CAPACITY AS ACTING PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH IV, BAGUIO CIT...

G.R. No. 104392. February 20, 1996

Ponente: MENDOZA, J.

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MENDOZA, J.:

Petitioner Ruben Maniago was the owner of shuttle buses which were used in transporting employees of the Texas Instruments, (Phils.), Inc. from Baguio City proper to its plant site at the Export Processing Authority in Loakan, Baguio City.

On January 7, 1990, one of his buses figured in a vehicular accident with a passenger jeepney owned by private respondent Alfredo Boado along Loakan Road, Baguio City. As a result of the accident, a criminal case for reckless imprudence resulting in damage to property and multiple physical injuries was filed on March 2, 1990 against petitioner's driver, Herminio Andaya, with the Regional Trial Court of Baguio City, Branch III, where it was docketed as Criminal Case No. 7514-R. A month later, on April 19, 1990, a civil case for damages was filed by private respondent Boado against petitioner himself. The complaint, docketed as Civil Case No. 2050-R, was assigned to Branch IV of the same court.

Petitioner moved for the suspension of the proceedings in the civil case against him, citing the pendency of the criminal case against his driver. But the trial court, in its order dated August 30, 1991, denied petitioner's motion on the ground that pursuant to the Civil Code, the action could proceed independently of the criminal action, in addition to the fact that the petitioner was not the accused in the criminal case.

Petitioner took the matter on certiorari and prohibition to the Court of Appeals, maintaining that the civil action could not proceed independently of the criminal case because no reservation of the right to bring it separately had been made in the criminal case.

On January 31, 1992, the Court of Appeals dismissed his petition on the authority of *Garcia v. Florido*,^[1] and *Abellana v. Marave*,^[2] which it held allowed a civil action for damages to be filed independently of the criminal action even though no reservation to file the same has been made. Therefore, it was held, the trial court correctly denied petitioner's motion to suspend the proceedings in the civil case.^[3]

Hence this petition for review on certiorari. There is no dispute that private respondent, as offended party in the criminal case, did not reserve the right to bring a separate civil action, based on the same accident, either against the driver, Herminio Andaya, or against the latter's employer, herein petitioner Ruben Maniago. The question is whether despite the absence of such reservation, private respondent may nonetheless bring an action for damages against petitioner under the following provisions of the Civil Code:

Art. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to

pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.

Art. 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

.....

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

Art. 2177 states that responsibility for fault or negligence under the above-quoted provisions is entirely separate and distinct from the civil liability arising from negligence under the Revised Penal Code.

However, Rule 111 of the Revised Rules of Criminal Procedure, while reiterating that a civil action under these provisions of the Civil Code may be brought separately from the criminal action, provides that the right to bring it must be reserved. This Rule reads:

Section 1. Institution of criminal and civil actions. - When a criminal action is instituted, the civil action for the recovery of civil liability is impliedly instituted with the criminal action, unless the offended party waives the civil action, reserves his right to institute it separately, or institutes the civil action prior to the criminal action.

Such civil action includes recovery of indemnity under the Revised Penal Code, and damages under Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines arising from the same act or omission of the accused.

.....

The reservation of the right to institute the separate civil actions shall be made before the prosecution starts to present its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation.

.....

Sec. 3. When civil action may proceed independently. - In the cases provided for in Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines, the independent civil action which has been reserved may be brought by the offended party, shall proceed independently of the criminal action, and shall require only a preponderance of evidence.

Based on these provisions, petitioner argues that the civil action against him was impliedly instituted in the criminal action previously filed against his employee because private respondent did not reserve his right to bring this action separately. (The records show that while this case was pending in the Court of Appeals, the criminal action was dismissed on July 10, 1992 for failure of the prosecution to file a formal offer of its evidence, with the consequence that the prosecution failed to prosecute its case. Accordingly, it seems to be petitioner's argument that since the civil action to recover damages was impliedly instituted with the criminal action, the dismissal of the criminal case brought with it the dismissal of the civil action.)

Private respondent admits that he did not reserve the right to institute the present civil action against Andaya's employer. He contends, however, that the rights provided in Arts. 2176 and 2177 of the Civil Code are substantive rights and, as such, their enforcement cannot be conditioned on a reservation to bring the action to enforce them separately. Private respondent cites in support of his position statements made in *Abellana v. Marave*,^[4] *Tayag v. Alcantara*,^[5] *Madeja v. Caro*,^[6] and *Jarantilla v. Court of Appeals*,^[7] to the effect that the requirement to reserve the civil action is substantive in character and, therefore, is beyond the rulemaking power of this Court under the Constitution.^[8]

After considering the arguments of the parties, we have reached the conclusion that the right to bring an action for damages under the Civil Code must be reserved as required by Rule 111, § 1, otherwise it should be dismissed.

I.

A. To begin with, §1 quite clearly requires that a reservation must be made to institute separately all civil actions for the recovery of civil liability, otherwise they will be deemed to have been instituted with the criminal case. Such civil actions are not limited to those which arise "from the offense charged," as originally provided in Rule 111 before the amendment of the Rules of Court in 1988. In other words the right of the injured party to sue separately for the recovery of the civil liability whether arising from crimes (ex delicto) or from quasi delict under Art. 2176 of the Civil Code must be reserved otherwise they will be deemed instituted with the criminal action.[9]

Thus Rule 111, §1 of the Revised Rules of Criminal Procedure expressly provides:

Section 1. Institution of criminal and civil actions.- When a criminal action is instituted, the civil action for the recovery of civil liability is impliedly instituted with the criminal action, unless the offended party waives the civil action, reserves his right to institute it separately, or institutes the civil action prior to the criminal action.

Such civil action includes recovery of indemnity under the Revised Penal Code, and damages under Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines arising from the same act or omission of the accused.

B. There are statements in some cases implying that Rule 111, §§1 and 3 are beyond the rulemaking power of the Supreme Court under the Constitution. A careful examination of the cases, however, will show that approval of the filing of separate civil action for damages even though no reservation of the right to institute such civil action had been reserved rests on considerations other than that no reservation is needed.

In *Garcia v. Florido*[10] the right of an injured person to bring an action for damages even if he did not make a reservation of his action in the criminal prosecution for physical injuries through reckless imprudence was upheld on the ground that by bringing the civil action the injured parties had "in effect abandoned their right to press for recovery of damages in the criminal case. . . . Undoubtedly an offended party loses his right to intervene in the prosecution of a criminal case, not only when he has waived the civil action or expressly reserved his right to institute, but also when he has actually instituted the civil action. For by either of such actions his interest in the criminal case has disappeared." [11] The statement that Rule 111, § 1 of the 1964 Rules is "an unauthorized amendment of substantive law, Articles 32, 33 and 34 of the Civil Code, which do not provide for the reservation" is not the ruling of the Court but only an aside, quoted from an observation made in the footnote of a decision in another case.[12]

Another case cited by private respondent in support of his contention that the civil case need not be reserved in the criminal case is *Abellana v. Marave*[13] in which the right of persons injured in a vehicular accident to bring a separate action for damages was sustained despite the fact that the right to bring it separately was not reserved. But the basis of the decision in that case was the fact that the filing of the civil case was equivalent to a reservation because it was made after the decision of the City Court convicting the accused had been appealed. Pursuant to Rule 123, §7 of the 1964 Rules, this had the effect of vacating the decision in the criminal case so that technically, the injured parties could still reserve their right to institute a civil action while the criminal case was pending in the Court of First Instance. The statement "the right of a party to sue for damages independently of the criminal action is a substantive right which cannot be frittered away by a construction that could render it nugatory" without raising a "serious constitutional question"[14] was thrown in only as additional support for the ruling of the Court.

On the other hand, in *Madeja v. Caro*[15] the Court held that a civil action for damages could proceed even while

the criminal case for homicide through reckless imprudence was pending and did not have to await the termination of the criminal case precisely because the widow of the deceased had reserved her right to file a separate civil action for damages. We do not see how this case can lend support to the view of private respondent.

In *Jarantilla v. Court of Appeals*[16] the ruling is that the acquittal of the accused in the criminal case for physical injuries through reckless imprudence on the ground of reasonable doubt is not a bar to the filing of an action for damages even though the filing of the latter action was not reserved. This is because of Art. 29 of the Civil Code which provides that "when an accused 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." This ruling obviously cannot apply to this case because the basis of the dismissal of the criminal case against the driver is the fact that the prosecution failed to prove its case as a result of its failure to make a formal offer of its evidence. Rule 132, §34 of the Revised Rules on Evidence provides that "The court shall consider no evidence which has not been formally offered. The purpose for which the evidence is offered must be specified."

To the same effect are the holdings in *Tayag, Sr. v. Alcantara*,[17] *Bonite v. Zosa*[18] and *Diong Bi Chu v. Court of Appeals*. [19] Since Art. 29 of the Civil Code authorizes the bringing of a separate civil action in case of acquittal on reasonable doubt and under the Revised Rules of Criminal Procedure such action is not required to be reserved, it is plain that the statement in these cases that to require a reservation to be made would be to sanction an unauthorized amendment of the Civil Code provisions is a mere dictum. As already noted in connection with the case of *Garcia v. Florido*, that statement was not the ruling of the Court but only an observation borrowed from another case.[20]

The short of it is that the rulings in these cases are consistent with the proposition herein made that, on the basis of Rule 111, §§1-3, a civil action for the recovery of civil liability is, as a general rule, impliedly instituted with the criminal action, except only (1) when such action arising from the same act or omission, which is the subject of the criminal action, is waived; (2) the right to bring it separately is reserved or (3) such action has been instituted prior to the criminal action. Even if an action has not been reserved or it was brought before the institution of the criminal case, the acquittal of the accused will not bar recovery of civil liability unless the acquittal is based on a finding that the act from which the civil liability might arise did not exist because of Art. 29 of the Civil Code.

Indeed the question on whether the criminal action and the action for recovery of the civil liability must be tried in a single proceeding has always been regarded a matter of procedure and, since the rulemaking power has been conferred by the Constitution on this Court, it is in the keeping of this Court. Thus the subject was provided for by G.O. No. 58, the first Rules of Criminal Procedure under the American rule. Sec. 107 of these Orders provided:

The privileges now secured by law to the person claiming to be injured by the commission of an offense to take part in the prosecution of the offense and to recover damages for the injury sustained by reason of the same shall not be held to be abridged by the provisions of this order; but such person may appear and shall be heard either individually or by attorney at all stages of the case, and the court upon conviction of the accused may enter judgment against him for the damages occasioned by his wrongful act. It shall, however, be the duty of the promotor fiscal to direct the prosecution, subject to the right of the person injured to appeal from any decision of the court denying him a legal right.

This was superseded by the 1940 Rules of Court, Rule 106 of which provided:

SEC. 15. Intervention of the offended party in criminal action. - Unless the offended party has waived the civil action or expressly reserved the right to institute it after the termination of the criminal case, and subject to the provisions of Section 4 hereof, he may intervene, personally or by attorney, in the prosecution of the offense.

This Rule was amended thrice, in 1964, in 1985 and lastly in 1988. Through all the shifts or changes in policy as

to the civil action arising from the same act or omission for which a criminal action is brought, one thing is clear: The change has been effected by this Court. Whatever contrary impression may have been created by *Garcia v. Florido*[21] and its progeny[22] must therefore be deemed to have been clarified and settled by the new rules which require reservation of the right to recover the civil liability, otherwise the action will be deemed to have been instituted with the criminal action.

Contrary to private respondent's contention, the requirement that before a separate civil action may be brought it must be reserved does not impair, diminish or defeat substantive rights, but only regulates their exercise in the general interest of orderly procedure. The requirement is merely procedural in nature. For that matter the Revised Penal Code, by providing in Art. 100 that any person criminally liable is also civilly liable, gives the offended party the right to bring a separate civil action, yet no one has ever questioned the rule that such action must be reserved before it may be brought separately.

Indeed, the requirement that the right to institute actions under the Civil Code separately must be reserved is not incompatible with the independent character of such actions. There is a difference between allowing the trial of civil actions to proceed independently of the criminal prosecution and requiring that, before they may be instituted at all, a reservation to bring them separately must be made. Put in another way, it is the conduct of the trial of the civil action - not its institution through the filing of a complaint - which is allowed to proceed independently of the outcome of the criminal case.

C. There is a practical reason for requiring that the right to bring an independent civil action under the Civil Code separately must be reserved. It is to avoid the filing of more than one action for the same act or omission against the same party. Any award made against the employer, whether based on his subsidiary civil liability under Art. 103 of the Revised Penal Code or his primary liability under Art. 2180 of the Civil Code, is ultimately recoverable from the accused.[23]

In the present case, the criminal action was filed against the employee, bus driver. Had the driver been convicted and found insolvent, his employer would have been held subsidiarily liable for damages. But if the right to bring a separate civil action (whether arising from the crime or from quasi-delict) is reserved, there would be no possibility that the employer would be held liable because in such a case there would be no pronouncement as to the civil liability of the accused. In such a case the institution of a separate and independent civil action under the Civil Code would not result in the employee being held liable for the same act or omission. The rule requiring reservation in the end serves to implement the prohibition against double recovery for the same act or omission.[24] As held in *Barredo v. Garcia*,[25] the injured party must choose which of the available causes of action for damages he will bring. If he fails to reserve the filing of a separate civil action he will be deemed to have elected to recover damages from the bus driver on the basis of the crime. In such a case his cause of action against the employer will be limited to the recovery of the latter's subsidiary liability under Art. 103 of the Revised Penal Code.

II.

Nor does it matter that the action is against the employer to enforce his vicarious liability under Art. 2180 of the Civil Code. Though not an accused in the criminal case, the employer is very much a party, as long as the right to bring or institute a separate action (whether arising from crime or from quasi delict) is not reserved.²⁶ The ruling that a decision convicting the employee is binding and conclusive upon the employer "not only with regard to its civil liability but also with regard to its amount because the liability of an employer cannot be separated but follows that of his employee"[27] is true not only with respect to the civil liability arising from crime but also with respect to the civil liability under the Civil Code. Since whatever is recoverable against the employer is

ultimately recoverable by him from the employee, the policy against double recovery requires that only one action be maintained for the same act or omission whether the action is brought against the employee or against his employer. Thus in *Dulay v. Court of Appeals*[28] this Court held that an employer may be sued under Art. 2180 of the Civil Code and that the right to bring the action did not have to be reserved because, having instituted before the criminal case against the employee, the filing of the civil action against the employer constituted an express reservation of the right to institute its separately.

WHEREFORE, the decision appealed from is RESERVED and the complaint against petitioner is DISMISSED.

SO ORDERED.

Regalado (Chairman), Romero and Puno, JJ., concur.

[1] 52 SCRA 420 (1973).

[2] 57 SCRA 106 (1974).

[3] Per Justice Antonio M. Martinez concurred in by Justices Asaali S. Isnani and Regina G. Ordoñez-Benitez.

[4] *Supra* at note 2.

[5] 98 SCRA 723 (1980).

[6] 126 SCRA 293 (1983).

[7] 171 SCRA 429 (1989).

[8] Art. VIII, § 5(5) of the Constitution provides that the Supreme Court shall have the power to "Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court."

[9] *Dulay v. Court of Appeals*, 243 SCRA 220(1995); *Yakult v. Court of Appeals*, 190 SCRA 347 (1990)

[10] 52 SCRA 420 (1973).

[11] *Id.* at 428.

[12] *Corpus v. Paje*, 28 SCRA 1062, n. 2 at 1069(1969).

[13] 57 SCRA 106(1974).

[14] *Id.* at 112.

[15] 126 SCRA 293 (1983).

[16] 171 SCRA 429 (1989).

[17] 98 SCRA 723 (1980).

[18] 162 SCRA 173(1988).

[19] 192 SCRA 554 (1990).

[20] Supra, p. 8.

[21] Supra at note 1.

[22] Abellana v. Marave, 57 SCRA 106(1974); Tayag v. Alcantara, 98 SCRA 723 (1980); Madeja v. Caro, 126 SCRA 293 (1983); Jarantilla v. Court of Appeals, 171 SCRA 429 (1989); Bonite v. Zosa, 162 SCRA 173 (1988); Diong Bi Chu v. Court of Appeals, 192 SCRA 554 (1990).

[23] Civil Code, Art. 2181; Emerencia v. Gonzales, 104 Phil. 1059(1958).

[24] Yakult v. Court of Appeals, 190 SCRA 347 (1990).

[25] 73 Phil. 607 (1942). Accord, Joaquin v. Aniceto, 120 Phil. 1100 (1964).

[26] Yasay v. Adil, 164 SCRA 494 (1988); Pajarito v. Seneris, 87 SCRA 275 (1978).

[27] Miranda v. Malate Garage and Taxicab, Inc., 99 Phil. 670 (1956).

[28] Supra at note 9

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