

RAUL H. SESBREÑO, PETITIONER, VS. COURT OF APPEALS, JESUS P. GARCIA, SR., AND SAMUEL NUÑEZ, RESPONDENTS.

G.R. No. 121433. September 23, 1996

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

On May 11, 1989, a Visayan Electric Company (VECO for brevity) inspection team conducted a routine inspection of the electric meters within the La Paloma Subdivision, Cebu City. The team -- composed of Felipe Constantino and Ronald Arcilla, both employees of VECO, and a certain Sgt. Demetrio Balicha,[1] the police escort-- discovered that petitioner Raul H. Sesbreño's residential electric meter was "tilted 180 degrees from its original position", and that it "failed to register actual electric consumption".[2] A subsequent test of the same electric meter disclosed that it has been tampered to reduce petitioner's electric consumption. Offshoot were two cases: one, commenced by VECO's counsels, Atty. Loreto Durano and herein private respondents Attorneys Jesus P. Garcia, Sr. and Samuel Nuñez against the petitioner for theft of electricity[3]; and the other, initiated by herein petitioner against the VECO officials and employees who figured in this incident, including Attorneys Loreto Durano, Jesus P. Garcia, Sr. and Samuel Nuñez, for incriminating an innocent person under Article 363 of the Revised Penal Code[4] before the Municipal Trial Court (MTC) of Cebu City. On May 18, 1992, the MTC rendered judgment as follows:

"WHEREFORE, for failure to prove the guilt of the accused beyond reasonable doubt, the Court hereby ACQUITS accused Attys. Loreto Durano, Jesus P. Garcia and Samuel Nunez from the crime as (sic) charged.

"The Court likewise finds no merit to (sic) the allegations of damages against (sic) accused.

"SO ORDERED."[5]

Petitioner appealed the civil aspect of the MTC decision to the Regional Trial Court (RTC) of Cebu City which took a diametrically opposite view and in its judgment of August 16, 1993, ordered as follows:

"WHEREFORE, judgment is hereby rendered in favor of the private-complainant-appellant and against accused-appellees Samuel Nuñez, Loreto Durano and Jesus Garcia in their official capacity as VECO legal officers, ordering the latte (sic) three jointly and severally to pay the former the sum of P5,000 as MORAL DAMAGES; P2,000 as EXEMPLARY DAMAGES; and P3,000.00 ACTUAL DAMAGES." (DECISION dated August 16, 1993; portion only; in Civil Case CEB-11979 by Branch 10, RTC of Cebu)."[6]

On motion for reconsideration by the accused attorneys, the RTC absolved Atty. Loreto Durano from civil liability. On the other hand, private respondents Attorneys Garcia, Sr., and Nuñez appealed to the respondent Court of Appeals which reversed the decision of the RTC.[7] Petitioner's motion for reconsideration[8] was likewise denied;[9] hence, this petition anchored solely on the alleged error of respondent court in absolving private respondents from the civil liability.

Petitioner cites Article 29 of the Civil Code and argues that the private respondents may still be held civilly liable

because they were acquitted on the ground of reasonable doubt. The contention lacks merit. Article 29 of the Civil Code provides:

"Art. 29. 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. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

"If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground."

Acquittal on the ground of reasonable doubt does not necessarily result to an award of civil liability to the offended party. The civil liability has to be proved by preponderance of evidence either in the civil action contemplated by Article 29, or in the same criminal action where the civil action is deemed impliedly instituted.[10] In this regard, settled is the rule that the judgment of acquittal extinguishes the civil liability of the accused for damages only when it includes a declaration that the fact from which the civil liability might arise did not exist.[11] This is buttressed by Rule 111, Section 2 (b) of the Rules of Court which states that "[e]xtinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist". And in this case, the MTC made the following declaration:

"The Court is not swayed into believing that accused conspired with respondents Felipe Constantino, Ronald Arcilla, Demetrio Balicha and Norberto Abellana by issuing orders to fabricate and plant evidence against complainant on that fateful day of May 11, 1989. No mention by witnesses was ever shown that accused participated in the act either by showing that there exists some agreement concerning the commission of the crime and a decision to commit it or that there was a meeting of the minds of the accused to perform the act and all were animated by the same purpose.

"The Court chose not to further delve into the merits of the alleged damaged (sic) suffered by complainant when he was preferred (sic) the amount of P31,482.89 for energy consumption estimated at the time of the alleged tilting of the electric meter (sic) as the responsibility thereof if any could not be laid on the shoulders of (sic) accused who by evidence convincingly showed that they did not conspire nor issued orders to the VECO employees in fabricating or planting (sic) evidence.

"x x x x x x x x

"WHEREFORE, for failure to prove the guilt of the accused beyond reasonable doubt, the Court hereby ACQUITS accused Attys. Loreto Durano, Jesus P. Garcia and Samuel Nuñez from the crime as charged.

"The Court likewise finds no merit to (sic) the allegations of damages against accused.

"SO ORDERED." [12]

Clearly, the above-quoted findings decreed in no unmistakable terms that private respondents had no part in the alleged tilting of the petitioner's electric meter. These are not only virtual declarations of the private respondents' innocence of the crime charged, but also of the non-existence of their civil liability. In consequence, we find no reversible error committed by the Court of Appeals.

ACCORDINGLY, the petition is hereby DENIED.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] A member of the 341st PC/INP Company stationed at Gorordo Avenue, Cebu City.

[2] Rollo, p. 79.

[3] Punishable under B.P. 876: AN ACT TO INCLUDE ALL AUTHORIZED WATER, GAS, ELECTRIC and TELEPHONE UTILITIES WITHIN THE COVERAGE OF PRESIDENTIAL DECREE NO. 401, AS AMENDED.

[4] ART. 363. Incriminating innocent person.-Any person who, by any act not constituting perjury, shall directly incriminate or impute to an innocent person the commission of a crime, shall be punished by arresto mayor.

[5] MTC Decision penned by Judge Esperidion C Rival, p. 13; Rollo; p. 85.

[6] Rollo, p. 5.

[7] Court of Appeals, Ninth Division, decision promulgated on December 21, 1994, penned by Justice Angelina Sandoval-Gutierrez with Justices Oscar M. Herrera and Ruben T. Reyes, concurring; Rollo, pp. 25-30.

[8] Rollo, pp. 31-39.

[9] Court of Appeals, Special Former Ninth Division, resolution promulgated on July 25, 1995; Justice Romeo J. Callejo, Jr., replaced former Justice Oscar M. Herrera; Rollo, pp. 40-41

[10] Rule 111, Section 1, Rules of Court.

[11] Calalang v. Intermediate Appellate Court, 194 SCRA 514, 523 (1991); People v. Ritter, 194 SCRA 690 (1991); Marcia v. Court of Appeals, 120 SCRA 193, 201 (1983); Tan v. Standard Vacuum Oil, et. al., 97 Phil. 672.

[12] MTC Decision, Criminal Case No. R-52051, pp. 12-13; Rollo, pp. 84-85.

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