

GEORGE (CULHI) HAMBON, PETITIONER, VS. COURT OF APPEALS AND VALENTINO U. CARANTES, RESPONDENTS.

G.R. No. 122150. March 17, 2003

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Petitioner George (Culhi) Hambon filed herein petition for review on certiorari, raising the following issues:

WHETHER OR NOT A CIVIL CASE FOR DAMAGES BASED ON AN INDEPENDENT CIVIL ACTION FALLING UNDER ARTICLE 32, 33, 34 AND 2176 OF THE NEW CIVIL CODE BE DULY DISMISSED FOR FAILURE TO MAKE RESERVATION TO FILE A SEPARATE CIVIL ACTION IN A CRIMINAL CASE FILED ARISING FROM THE SAME ACT OR OMISSION OF THE ACCUSED PURSUANT TO RULE 111, SECTION 1 OF THE RULES OF COURT, THE FAILURE TO MAKE RESERVATION BEING DUE TO THE FACT THAT THE CRIMINAL CASE WAS DISMISSED BEFORE THE PROSECUTION STARTED TO PRESENT EVIDENCE FOR FAILURE OF THE PRIVATE COMPLAINANT TO APPEAR DESPITE NOTICE

SHOULD A STRICT INTERPRETATION OF RULE 111, SECTION 1 OF THE RULES OF COURT WHICH INFRINGES ON A RIGHT OF A PARTY BASED ON A SUBSTANTIVE LAW BE PERMITTED WHEN TO DO SO WOULD DIMINISH, MODIFY AND/OR AMEND A SUBSTANTIVE RIGHT CONTRARY TO LAW.[1]

The factual background that led to the filing of the petition is as follows:

On June 6, 1989, the petitioner filed before the Regional Trial Court of Baguio (Branch 6), a complaint for damages[2] for the injuries and expenses he sustained after the truck driven by the respondent bumped him on the night of December 9, 1985.[3] In answer thereto, respondent contended that the criminal case arising from the same incident, Criminal Case No. 2049 for Serious Physical Injuries thru Reckless Imprudence, earlier filed on January 8, 1986,[4] had already been provisionally dismissed by the Municipal Trial Court of Tuba, Benguet on March 23, 1987, due to petitioner's lack of interest;[5] and that the dismissal was with respect to both criminal and civil liabilities of respondent.[6]

After trial, the Regional Trial Court rendered a decision, dated December 18, 1991, ruling that the civil case was not barred by the dismissal of the criminal case, and that petitioner is entitled to damages. The dispositive portion of the RTC decision reads:

WHEREFORE, Judgment is hereby rendered, sentencing defendant Valentino Cerantes to pay plaintiff George Hambon the sum of P60,000.00 for hospitalization and medical expenses and P10,000.00 for native rituals, as Actual Damages; the sum of P10,000.00 as Moral Damages, P5,000.00 as Exemplary Damages and P5,000.00 as Attorney's fees and costs.

SO ORDERED.[7]

On appeal,[8] the Court of Appeals, in its decision promulgated on March 8, 1995,[9] reversed and set aside the

decision of the trial court, and dismissed petitioner's complaint for damages.

According to the appellate court, since the petitioner did not make any reservation to institute a separate civil action for damages, it was impliedly instituted with the criminal case, and the dismissal of the criminal case carried with it the dismissal of the suit for damages, notwithstanding the fact that the dismissal was provisional as it amounted to an acquittal and had the effect of an adjudication on the merits. [10]

Hence, herein petition for review on certiorari under Rule 45 of the Rules of Court.

Petitioner argues that the ruling in the case of *Abellana v. Marave*[11] should be observed, i.e., a civil action for damages may be filed and proceed independently of the criminal action even without reservation to file the same has been made;[12] and that the requirement of reservation, as provided in Rule 111 of the Rules of Court, practically diminished/amended/modified his substantial right.[13]

The petition must be denied.

Petitioner filed the complaint for damages on June 6, 1989. Hence, Section 1, Rule 111 of the 1985 Rules on Criminal Procedure, as amended in 1988,[14] is the prevailing and governing law in this case, viz.:

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 Article 32, 33, 34 and 2176 of the Civil Code of the Philippines arising from the same act or omission of the accused.

...

Under the foregoing rule, civil actions to recover liability arising from crime (*ex delicto*) and under Articles 32, 33, 34 and 2176 of the Civil Code (*quasi-delict*) are deemed impliedly instituted with the criminal action unless waived, reserved or previously instituted.

Thus, in *Maniago v. Court of Appeals*,[15] the Court ruled that the right to bring an action for damages under the Civil Code must be reserved, as required by Section 1, Rule 111, otherwise it should be dismissed;[16] and that the reservation requirement does not impair, diminish or defeat substantive rights, but only regulates their exercise in the general interest of orderly procedure.[17]

In the *Maniago* case, petitioner Ruben Maniago was the owner of the bus driven by Herminio Andaya that figured in a vehicular accident with the jeepney owned by respondent Alfredo Boado. The petitioner therein initially sought for the suspension of the civil case for damages filed against him in view of the pendency of the criminal case for reckless imprudence resulting in damage to property and multiple physical injuries filed against his driver. The respondent, in the criminal case, did not reserve the right to bring the separate civil action against the petitioner or his driver. The criminal case was later dismissed for the failure of the prosecution to prosecute its case. On appeal, the Court identified the issues as (1) whether the respondent can file a civil action for damages despite the absence of reservation; (2) whether the dismissal of the criminal case brought with it the dismissal of the civil action; and (3) whether the reservation requirement is substantive in character and beyond the rule-making power of the Court.[18]

The Court expounded:

... §1quite 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. ... 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.

...

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 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.[19]

While the *Abellana* case ruled that a reservation is not necessary, the 1988 amendment of the rule explicitly requires reservation of the civil action.

x x x Prior reservation is a condition sine qua non before any of these independent civil actions can be instituted and thereafter have a continuous determination apart from or simultaneous with the criminal action.

. . . Far from altering substantive rights, the primary purpose of the reservation is, to borrow the words of the Court in "*Caños v. Peralta*":

‘ . . . to avoid multiplicity of suits, to guard against oppression and abuse, to prevent delays, to clear congested dockets, to simplify the work of the trial court; in short, the attainment of justice with the least expense and vexation to the parties-litigants.’[20]

Thus, herein petitioner *Hambon* should have reserved his right to separately institute the civil action for damages in Criminal Case No. 2049. Having failed to do so, Civil Case No. 1761-R for damages subsequently filed by him without prior reservation should be dismissed. With the dismissal of Criminal Case No. 2049, whatever civil action for the recovery of civil liability that was impliedly instituted therein was likewise dismissed.

WHEREFORE, the instant petition for review on certiorari is hereby DENIED for lack of merit, and the decision of the Court of Appeals dated March 8, 1995, is AFFIRMED in toto.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing and Callejo, Sr., JJ., concur.

[1] Rollo, pp. 10-11.

[2] Docketed as Civil Case No. 1761-R.

[3] Records, pp. 1-4.

[4] *Id.*, Exhibit “2”, p. 135.

[5] *Id.*, Exhibit “3”, pp. 136-137.

[6] *Id.* p. 14.

[7] *Id.* p. 181.

[8] Docketed as CA-G.R. CV No. 36991 entitled *George (Culhi) Hambon, Plaintiff-Appellee, versus Valentino U. Cerantes, Defendant-Appellant.*

[9] CA Rollo, p. 88.

[10] Id., pp. 85-88.

[11] 57 SCRA 106 (1974).

[12] Rollo, p. 14.

[13] Id., p. 15.

[14] Bar Matter No. 375, approved per SC Resolution dated June 17, 1988, and re-affirmed per SC Resolution dated July 7, 1998 (effective October 1, 1988).

[15] 324 Phil. 34 [1996].

[16] Id., at 41.

[17] Id., at 47.

[18] Id., at 38, 40-41.

[19] Id., at 41-42, 47.

[20] San Ildefonso Lines, Inc. v. Court of Appeals, G.R. No. 119771, April 24, 1998, 289 SCRA 568, 574, 578.

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