HEIRS OF MARIO GEVERO, REPRESENTED BY IRISH GEVERO, PETITIONERS, VS. GUIHING AGRICULTURAL & DEVELOPMENT CORPORATION, RESPONDENT.

G.R. NO. 122619. August 18, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the herein petition for review on certiorari assailing the Decision[1] of the Court of Appeals dated October 13, 1995 in CA-G.R. SP No. 37408.

Juanito M, Nava is an employee of Guihing Agricultural & Development Corporation (GADECO). At around 5:30 p.m. of April 1, 1990, a Sunday, he was driving a motorcycle, issued to him by GADECO, along Quezon Avenue, Digos, Davao del Sur. Riding with him was his wife, Avelina Canseco-Nava. Along the way, Nava's motorcycle bumped the bicycle Mario Gevero was riding on. As a result of the collision, the latter died.

Subsequently, Nava was charged with Reckless Imprudence Resulting in Homicide in an Information filed with the Regional Trial Court, Branch 19, Digos, Davao del Sur, docketed as Criminal Case No. 235 (90). Before his arraignment, he manifested his intent to enter a plea of guilty to a lesser offense of reckless imprudence resulting in damage to property, defined and penalized under Article 365 of the Revised Penal Code. Irish Gevero, wife of the late Mario Gevero, and their children consented to the plea of guilty to a lesser offense by Nava.

On December 28, 1990, the trial court issued an Order[2] finding accused Nava guilty beyond reasonable doubt of the lesser offense of reckless imprudence resulting in damage to property and ordering him to pay a fine of P200.00.

During the separate hearing of the civil aspect of Criminal Case No. 235 (90), Irish Gevero testified that at the time of the death of her husband, he was thirty (30) years old, earning P6,000.00 a month as a T-shirt designer and P2,000.00 as a "freelance" worker. She incurred P153,222.15 for medical, hospitalization, and burial expenses.[3] Significantly, the accused did not object to the prosecution's formal offer of these evidence.

On November 12, 1991, the trial court rendered its Decision,[4] the dispositive portion of which reads:

> In view of the foregoing, judgment is hereby rendered in favor of the complainant and against the accused, ordering the latter to indemnify the offended party the amount of P153,222.15 for medical, hospitalization, and burial expenses; and to pay P8,000.00 for loss of earnings in the concept of actual or compensatory damages; P200,000.00 as moral damages and P25,000.00 as attorney's fees; P500.00 per court appearance as may be shown on record; and costs of suit.
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> SO ORDERED.

Eventually, the writ of execution was issued by the trial court. However, it was returned by the sheriff unsatisfied since accused Nava was insolvent. Upon motion of Irish Gevero and her children, the trial court issued a writ of

execution against GADECO, employer of Nava. Hence, its bank deposit of P157,044.75 was garnished and turned over by the sheriff to Irish Gevero.

GADECO filed a motion to quash the writ of execution and for the return of its money. However, the trial court issued an Order[5] dated December 26, 1994 denying GADECO's motion.

As the full amount of the award was not satisfied, the heirs of Mario Gevero filed a motion for the issuance of an alias writ of execution against GADECO. This was granted by the trial court.

Meanwhile, GADECO filed an urgent omnibus motion to hold in abeyance further execution of the Decision and to reconsider the Order dated December 26, 1994. Again in its Order dated January 16, 1995, the trial court denied this motion, prompting GADECO to file with the Court of Appeals a petition for certiorari,[6] docketed as CA-G.R. SP No. 37408. GADECO alleged therein that the appellate court, in issuing the Order dated December 26, 1994 denying GADECO's motion to quash the writ of execution and Order dated January 16, 1995 denying its omnibus motion, acted with grave abuse of discretion.

On October 13, 1995, the Court of Appeals rendered its Decision setting aside the challenged Orders of the trial court and ordering the heirs of Mario Gevero to return to GADECO the amount of P157,044.75.

Hence, the instant petition for review on certiorari by the heirs (wife and children) of Mario Gevero.

Petitioners contend that the Court of Appeals erred in ruling that the civil liability of respondent GADECO is only P200.00, the damage caused to the bicycle of the late Mario Gevero, thus obliterating the fact of his death.

Article 100 of the Revised Penal Code reads:

> ART. 100. Civil liability of a person guilty of felony. – Every person criminally liable for a felony is also civilly liable.

The Court of Appeals, in applying the above provision, ruled that the civil liability of accused Nava should be for the offense for which he was convicted and sentenced, i.e., reckless imprudence resulting in damage to property. Pursuant to Article 365 of the Revised Penal Code on criminal negligence,[7] the appellate court imposed upon the accused only a fine of P200.00, the damage caused to the victim's bicycle.

Section 2, Rule 116 of the 1985 Rules of Criminal Procedure, as amended, provides:

> SEC. 2. Plea of guilty to a lesser offense. - The accused, with the consent of the offended party and the fiscal, may be allowed by the trial court to plead guilty to a lesser offense, regardless of whether or not it is necessarily included in the crime charged, or is cognizable by a court of lesser jurisdiction than the trial court. No amendment of the complaint of information is necessary.

A conviction under this plea shall be equivalent to a conviction of the offense charged for purposes of double jeopardy.

It is clear from the Rule that an accused in a criminal case may be allowed to plead guilty to a lesser offense, regardless of whether it is included or not in the crime charged. Thus, pursuant to this Rule, Nava, who was charged with reckless imprudence resulting in homicide, was allowed by the trial court to plead guilty to the lesser offense of reckless imprudence resulting in damage to property.

The Court of Appeals, however, in limiting Nava's civil liability to the cost of the damage to the bicycle, clearly ignored the fact of death of the victim. The offense of reckless imprudence resulting in homicide necessarily produces death; the offense of reckless imprudence resulting in damage to property does not. Obviously, the fact of death of the victim cannot be reconciled with the accused's plea of guilty to the lesser offense of reckless

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imprudence resulting in damage to property.

Significantly, Section 2, Rule 116 is silent on the effect of the plea to a lesser offense on the civil liability of the accused. On this point, this Court's ruling in Amaton v. Anjero[8] is relevant, thus:

> However, the law is not entirely bereft of solutions in such cases. In instances where a literal application of a provision of law would lead to injustice or to a result so directly in opposition which the dictates of logic and everyday common sense as to be unconscionable, the Civil Code admonishes judges to take principles of right and justice at heart. In case of doubt, the intent is to promote right and justice. Fiat justicia ruat coelum. Stated differently, when a provision of law is silent or ambiguous, judges ought to invoke a solution responsive to the vehement urge of conscience.
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> These are fundamental tenets of law. In the case at bench, the fact of the victim's death, a clear negation of frustrated or attempted homicide, ought to have alerted the judge not only to a possibly inconsistent result but to an injustice. The failure to recognize such principles so cardinal to our body of laws amounts to ignorance of the law and reflects respondent judge's lack of prudence, if not competence, in the performance of his duties. While it is true, as respondent judge contends, that he merely applied the rule to the letter, the palpably incongruous result ought to have been a "red flag" alerting him of the possibility of injustice. The death of an identified individual, the gravamen of the charge against the defendant in the criminal case, cannot and should not be ignored in favor of a mere expedient plea of either attempted or frustrated homicide. We have held before that if the law is so elementary, not to know it or to act as if one does not know it, constitutes gross ignorance of law.

Indeed, the Court of Appeals should have realized outright that a grave injustice will be committed against the heirs of the victim if the accused will only be fined P200.00 corresponding to the cost of damage to the victim's bicycle, without awarding his heirs civil liabilities corresponding to the fact of his death. Common sense dictates that the civil liability arising from the death of a person cannot be pegged to the cost of damage to a bicycle.

Moreover, to hold otherwise would lead to the possibility that offended parties will hesitate to give their consent to a plea of guilty to a lesser offense by the accused for fear that it would foreclose their chance to recover the appropriate civil liability.

In fine, we hold that the civil liability of the accused for the death of Mario Gevero awarded by the trial court to his heirs is in order.

WHEREFORE, we GRANT the petition. The challenged Decision of the Court of Appeals in CA-G.R. SP No. 37408 is REVERSED. The Orders of the trial court dated December 26, 1994 and January 16, 1995 in Criminal Case No. 235 (90) are REINSTATED.

SO ORDERED.

Puno, (Chairperson), Corona, and Garcia, JJ., concur.
Azcuna, J., on official leave.

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[1] Rollo, pp. 18-28. Penned by Associate Justice Antonio P. Solano (retired), concurred in by Associate Justice Jose C. Dela Rama (retired) and Associate Justice Ricardo P. Galvez (deceased) concurring in the result (he wrote a Separate Opinion).

[2] Rollo, pp. 10-11.

[3] Exhibits "B," "B-1," "C," "D," "E," and "F," cited in the Decision of the trial court dated November 12, 1991,

Rollo, p. 12.

[4] Decision of the trial court dated November 12, 1991, id., p. 12.

[5] Rollo, pp. 14-16.

[6] Rollo, pp. 6-7.

[7] Art. 365. Imprudence and negligence.-

> XXX
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> When the execution of the act covered by this article shall have only resulted in damage to the property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damages xxx.

[8] A.M. No. RTJ-93-956, September 27, 1995, 248 SCRA 511, citing Uy v. Dizon-Capulong, A.M. No. RTJ-91-766, April 7, 1993, 221 SCRA 87, 95, and Article 10 of the Civil Code, which provides: "In case of doubt in the interpretation or application of laws, it is presumed that the lawmaking body intended right and justice to prevail."

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