

SEVERINO SALEN AND ELENA SALBANERA, PLAINTIFFS AND APPELLANTS, VS. JOSE BALCE, DEFENDANT AND APPELLEE.

G.R. No. 14414. April 27, 1960

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-14414/>

BAUTISTA ANGELO, J.:

On February 5, 1957, plaintiffs brought this action against defendant before the Court of First Instance of Camarines Norte to recover the sum of P2,000.00, with legal interest thereon from July 18, 1952, plus attorney's fees and other incidental expenses.

Defendant, in his answer, set up the defense that the law upon which plaintiffs predicate their right to recover does not here apply for the reason that that law refers to quasi-delicts and not to criminal cases.

After trial, the court sustained the theory of defendant and dismissed the complaint with costs. Hence the present appeal.

Plaintiffs are the legitimate parents of Carlos Salen who died single from wounds caused by Gumersindo Balce, a legitimate son of defendant. At the time, Gumersindo Balce was also single, a minor below 18 years of age, and was living with defendant. As a result of Carlos Salen's death, Gumersindo Balce was accused and convicted of homicide and was sentenced to imprisonment and to pay the heirs of the deceased an indemnity in the amount of P2,000.00. Upon petition of plaintiffs, the only heirs of the deceased, a writ of execution was issued for the payment of the indemnity but it was returned unsatisfied because Gumersindo Balce was insolvent and had no property in his name. Thereupon, plaintiffs demanded upon defendant, father of Gumersindo, the payment of the indemnity the latter has failed to pay, but defendant refused, thus causing plaintiffs to institute the present action.

The question for determination is whether appellee can be held subsidiary liable to pay the indemnity of P2,000.00 which his son was sentenced to pay in the criminal case filed against him.

In holding that the civil liability of the son of appellee arises from his criminal liability and, therefore, the subsidiary liability of appellee must be determined under the provisions of the Revised Penal Code, and not under Article 2180 of the new Civil Code which only applies to obligations which arise from quasi-delicts, the trial court made the following observation:

"The law provides that a person criminally liable for a felony is also civilly liable (Art. 100 of the Revised Penal Code). But there is no law which holds the father either primarily or subsidiarily liable for the civil liability incurred by the son who is a minor of 18 years. Under Art. 101 of the Penal Code, the father is civilly liable for the acts committed by his son if the latter As an imbecile, or insane, or under 9 years of age or over 9 but under 15, who has acted without discernment. Under Art. 102, only inkeepers and tavern-keepers are held subsidiarily liable, and under Art. 103 of the same Penal Code, the subsidiary liability established in Art. 102 shall apply only to 'employers, teachers, persons and corporations engaged in any kind of industry for felonies committed by their servants, pupils, workmen, apprentices or employees in the discharge, of their duties.' By the principle of *exclusio unius exclusio alterius*, the defendant in this case cannot be held subsidiary liable for

the civil liability of Gumersindo Balce who has been convicted of homicide for the killing of the plaintiff's son Carlos Salen.

"Art. 2180 of the Civil Code, relied upon by the plaintiffs, is not applicable to the case at bar. It applies to obligations which arise from quasi-delicts and not to obligations which arise from criminal offenses. Civil liability arising from criminal negligence or offenses is governed by the provisions of the Penal Code and civil liability arising from civil negligence is governed by the provision of the Civil Code. The obligation imposed by Art. 2176 of the New Civil Code expressly refers to obligations which arise from quasi-delicts. And obligations arising from criminal offenses are never obligations arising, from quasi-delicts (Commissioner's note). And according to Art. 2177, the responsibility for fault of negligence under Art. 2176 is entirely separate and distinct from the civil liability arising from negligence under the Penal Code * * *."

While we agree with the theory that, as a rule, the civil liability arising from a crime shall be governed by the provisions of the Revised Penal Code, we disagree with the contention that the subsidiary liability of persona for acts of those who are under their custody should likewise be governed by the same Code even in the absence of any provision governing the case, for that would leave the transgression of certain rights without any punishment or sanction in the law. Such would be the case if we would uphold the theory of appellee as sustained by the trial court.

It is true that under Article 101 of the Revised Penal Code, a father is made civilly liable for the acts committed by his son only if the latter is an imbecile, an insane, under 9 years of age, or over 9 but under 15 years of age, who acts without discernment, unless it appears that there is no fault or negligence on his part. This is because a son who commits the act under any of those conditions is by law exempt from criminal liability (Article 12, subdivisions 1, 2 and 3, Revised Penal Code). The idea is not to leave the act entirely unpunished but to attach certain civil liability to the person who has the delinquent minor under his legal authority or control. But a minor over 15 who acts with discernment is not exempt from criminal liability, for which reason the Code is silent as to the subsidiary liability of his parents should he stand convicted. In that case, resort should be had to the general law which is our Civil Code.

The particular law that governs this case is Article 2180, the pertinent portion of which provides: "The father and, in case of his death or incapacity, the mother, are responsible for damages caused by the minor children who lived in their company." To hold that this provision does not apply to the instant case because it only covers obligations which arise from quasi-delicts and not obligations which arise from criminal offenses, would result in the absurdity that while for an act where mere negligence intervenes the father or mother may stand subsidiarily liable for the damage caused by his or her son, no liability would attach if the damage is caused with criminal intent. Verily, the void that apparently exists in the Revised Penal Code is subserved by this particular provision of our Civil Code, as may be gleaned from some recent decisions of this Court which cover equal or identical cases.

A case in point is *Exconde vs. Capuno*, 101 Phil., 843, the facts of which are as follows:

"Dante Capuno, a minor of 15 years of age, lives in the company of his father, Delfin Capuno. He is a student of the Balintawak Elementary School in the City of San Pablo and a member of the Boy Scout Organization of his school. On March 31, 1949, on the occasion of a certain parade in honor of Dr. Jose Rizal in the City of San Pablo, Dante Capuno was one of those instructed by the City School Supervisor to join the parade. From the school, Dante Capuno, together with other students, boarded a jeep. When the jeep started to run, Dante Capuno took hold of the wheel and drove it while the driver sat on his left side. They have not gone far when the jeep turned turtle and two of its passengers, Amado Ticzon and Isidro Caperiña died as a consequence. The corresponding criminal action for double homicide through reckless imprudence was instituted against Dante Capuno. During the trial, Sabina Exconde, as mother of the deceased Isidro Caperiña reserved her right to bring a separate civil action for damages against the accused. Dante Capuno was found guilty of the criminal

offense charged against him. In line with said reservation of Sabina Exconde, the corresponding civil action for damages was filed against Delfin Capuno, Dante Capuno and others."

In holding Delfin Capuno jointly and severally liable with his minor son Dante Capuno arising from the criminal act committed by the latter, this Court made the following ruling:

"The civil liability which the law imposes upon the father and, in case of his death or incapacity, the mother, for any damages that may be caused by the minor children who live with them is obvious. This is a necessary consequence of the parental authority they exercise over them which imposes upon the parents the 'duty of supporting them, keeping them in their company, educating them in proportion to their means', while, on the other hand, gives them the 'right to correct and punish them in moderation (Arts. 134 and 135, Spanish Civil Code). The only way by which they can relieve themselves of this liability is if they prove that they exercised all the diligence of a good father of a family to prevent the damage (Art. 1903, last paragraph, Spanish Civil Code.) This defendants failed to prove."

Another case in point is Araneta vs. Arreglado 104 Phil., 524; 55 Off. Gaz. [9] 1961. The facts of this case are as follows:

"On March 7, 1961, while plaintiff Benjamin Araneta was talking with the other students of the Ateneo de Manila while seated atop a low ruined wall bordering the Ateneo grounds along Dakota Street, in the City of Manila, Dario Arreglado, a former student of the Ateneo, chanced to pass by. Those on the wall called Dario and conversed with him, and in the course of their talk, twitted him on his leaving the Ateneo and enrolling in the De La Salle College. Apparently, Arreglado resented the banter and suddenly pulling from his pocket a Japanese Luger pistol (licensed in the name of his father Juan Arreglado), fired the same at Araneta, hitting him in the lower jaw, causing him to drop backward, bleeding profusely. Helped by his friends, the injured lad was taken first to the school infirmary and later to the Singian Hospital, where he lay hovering between life and death for three days. The vigor of youth came to his rescue; he rallied and after some time finally recovered, the gunshot wound left him with a degenerative injury to the jawbone (mandible) and a scar in the lower portion of the face, where the bullet had plowed through. The behavior of Benjamin was likewise affected, he becoming inhibited and morose after leaving the hospital."

Dario Arreglado was indicted for frustrated homicide and pleaded guilty, but in view of his youth, he being only 14 years of age, the court suspended the proceedings as prescribed by Article 80 of the Revised Penal Code. Thereafter, an action was instituted by Araneta and his father against Juan Arreglado, his wife, and their son Dario, to recover material, moral and exemplary damages. The court of first instance, after trial, sentenced the Arreglados to pay P3,943.00 as damages and attorney's fees. From this decision, the Aranetas appealed in view of the meager amount of indemnity awarded. This Court affirmed the decision but increased the indemnity to P18,000.00. This is a typical case of parental subsidiary liability arising from the criminal act of a minor son.

Wherefore, the decision appealed from is reversed. Judgment is hereby rendered ordering appellee to pay appellants the sum of P2,000.00, with legal interest thereon from the filing of the complaint, and the costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Endencia, Barrera, and Gutierrez David, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.