

PHILIPPINE RABBIT BUS LINES, INC., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 147703. April 14, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

When the accused-employee absconds or jumps bail, the judgment meted out becomes final and executory. The employer cannot defeat the finality of the judgment by filing a notice of appeal on its own behalf in the guise of asking for a review of its subsidiary civil liability. Both the primary civil liability of the accused-employee and the subsidiary civil liability of the employer are carried in one single decision that has become final and executory.

The Case

Before this Court is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the March 29, 2000[2] and the March 27, 2001[3] Resolutions of the Court of Appeals (CA) in CA-GR CV No. 59390. Petitioner's appeal from the judgment of the Regional Trial Court (RTC) of San Fernando, La Union in Criminal Case No. 2535 was dismissed in the first Resolution as follows:

“WHEREFORE, for all the foregoing, the motion to dismiss is GRANTED and the appeal is ordered DISMISSED.”[4]

The second Resolution denied petitioner's Motion for Reconsideration.[5]

The Facts

The facts of the case are summarized by the CA in this wise:

“On July 27, 1994, accused [Napoleon Roman y Macadangdang] was found guilty and convicted of the crime of reckless imprudence resulting to triple homicide, multiple physical injuries and damage to property and was sentenced to suffer the penalty of four (4) years, nine (9) months and eleven (11) days to six (6) years, and to pay damages as follows:

‘a.

to pay the heirs of JUSTINO TORRES the sum of P50,000.00 as indemnity for his death, plus the sum of P25,383.00, for funeral expenses, his unearned income for one year at P2,500.00 a month, P50,000.00 as indemnity for the support of Renato Torres, and the further sum of P300,000.00 as moral damages;

‘b.

to the heirs of ESTRELLA VELERO, the sum of P50,000.00 as indemnity for her death, the sum of P237,323.75 for funeral expenses, her unearned income for three years at P45,000.00 per annum, and the further sum of P1,000,000.00 as moral damages and P200,000.00 as attorney's fees[;]

‘c.

to the heirs of LORNA ANCHETA, the sum of P50,000.00 as indemnity for her death, the sum of P22,838.00 as funeral expenses, the sum of P20,544.94 as medical expenses and her loss of income for 30 years at P1,000.00 per month, and the further sum of P100,000.00 for moral damages;

‘d.

to MAUREEN BRENNAN, the sum of P229,654.00 as hospital expenses, doctor’s fees of P170,000.00 for the orthopedic surgeon, P22,500.00 for the [n]eurologist, an additional indemnity [of] at least P150,000.00 to cover future correction of deformity of her limbs, and moral damages in the amount of P1,000,000.00;

‘e.

to ROSIE BALAJO, the sum of P3,561.46 as medical expenses, P2,000.00 as loss of income, and P25,000.00 as moral damages;

‘f.

to TERESITA TAMONDONG, the sum of P19,800.47 as medical expenses, P800.00 for loss of income, and P25,000.00 as moral damages;

‘g.

to JULIANA TABTAB, the amount of P580.81 as medical expenses, P4,600.00 as actual damages and her loss earnings of P1,400.00 as well as moral damages in the amount of P10,000.00;

‘h.

to MIGUEL ARQUITOLA, the sum of P12,473.82 as hospital expenses, P14,530.00 as doctor’s fees, P1,000.00 for medicines and P50,000.00 as moral damages;

‘i.

to CLARITA CABANBAN, the sum of P155.00 for medical expenses, P87.00 for medicines, P1,710.00 as actual damages and P5,000.00 as moral damages;

‘j.

to MARIANO CABANBAN, the sum of P1,395.00 for hospital bills, P500.00 for medicine, P2,100.00 as actual damages, P1,200.00 for loss of income and P5,000.00 as moral damages;

‘k.

to La Union Electric Company as the registered owner of the Toyota Hi-Ace Van, the amount of P250,000.00 as actual damages for the cost of the totally wrecked vehicle; to the owner of the jeepney, the amount of P22,698.38 as actual damages;’

“The court further ruled that [petitioner], in the event of the insolvency of accused, shall be liable for the civil liabilities of the accused. Evidently, the judgment against accused had become final and executory.

“Admittedly, accused had jumped bail and remained at-large. It is worth mention[ing] that Section 8, Rule 124 of the Rules of Court authorizes the dismissal of appeal when appellant jumps bail. Counsel for accused, also admittedly hired and provided by [petitioner], filed a notice of appeal which was denied by the trial court. We affirmed the denial of the notice of appeal filed in behalf of accused.

“Simultaneously, on August 6, 1994, [petitioner] filed its notice of appeal from the judgment of the trial court. On April 29, 1997, the trial court gave due course to [petitioner’s] notice of appeal. On December 8, 1998, [petitioner] filed its brief. On December 9, 1998, the Office of the Solicitor General received [a] copy of

[petitioner's] brief. On January 8, 1999, the OSG moved to be excused from filing [respondents'] brief on the ground that the OSG's authority to represent People is confined to criminal cases on appeal. The motion was however denied per Our resolution of May 31, 1999. On March 2, 1999, [respondent]/private prosecutor filed the instant motion to dismiss.”[6] (Citations omitted)

Ruling of the Court of Appeals

The CA ruled that the institution of a criminal case implied the institution also of the civil action arising from the offense. Thus, once determined in the criminal case against the accused-employee, the employer's subsidiary civil liability as set forth in Article 103 of the Revised Penal Code becomes conclusive and enforceable.

The appellate court further held that to allow an employer to dispute independently the civil liability fixed in the criminal case against the accused-employee would be to amend, nullify or defeat a final judgment. Since the notice of appeal filed by the accused had already been dismissed by the CA, then the judgment of conviction and the award of civil liability became final and executory. Included in the civil liability of the accused was the employer's subsidiary liability.

Hence, this Petition.[7]

The Issues

Petitioner states the issues of this case as follows:

“A. Whether or not an employer, who dutifully participated in the defense of its accused-employee, may appeal the judgment of conviction independently of the accused.

“B. Whether or not the doctrines of *Alvarez v. Court of Appeals* (158 SCRA 57) and *Yusay v. Adil* (164 SCRA 494) apply to the instant case.”[8]

There is really only one issue. Item B above is merely an adjunct to Item A.

The Court's Ruling

The Petition has no merit.

Main Issue:

Propriety of Appeal by the Employer

Pointing out that it had seasonably filed a notice of appeal from the RTC Decision, petitioner contends that the judgment of conviction against the accused-employee has not attained finality. The former insists that its appeal stayed the finality, notwithstanding the fact that the latter had jumped bail. In effect, petitioner argues that its appeal takes the place of that of the accused-employee.

We are not persuaded.

Appeals in Criminal Cases

Section 1 of Rule 122 of the 2000 Revised Rules of Criminal Procedure states thus:

“Any party may appeal from a judgment or final order, unless the accused will be placed in double jeopardy.”

Clearly, both the accused and the prosecution may appeal a criminal case, but the government may do so only if the accused would not thereby be placed in double jeopardy.[9] Furthermore, the prosecution cannot appeal on the ground that the accused should have been given a more severe penalty.[10] On the other hand, the offended parties may also appeal the judgment with respect to their right to civil liability. If the accused has the right to

appeal the judgment of conviction, the offended parties should have the same right to appeal as much of the judgment as is prejudicial to them.[11]

Appeal by the Accused Who Jumps Bail

Well-established in our jurisdiction is the principle that the appellate court may, upon motion or motu proprio, dismiss an appeal during its pendency if the accused jumps bail. The second paragraph of Section 8 of Rule 124 of the 2000 Revised Rules of Criminal Procedure provides:

“The Court of Appeals may also, upon motion of the appellee or motu proprio, dismiss the appeal if the appellant escapes from prison or confinement, jumps bail or flees to a foreign country during the pendency of the appeal.”[12]

This rule is based on the rationale that appellants lose their standing in court when they abscond. Unless they surrender or submit to the court’s jurisdiction, they are deemed to have waived their right to seek judicial relief.[13]

Moreover, this doctrine applies not only to the accused who jumps bail during the appeal, but also to one who does so during the trial. Justice Florenz D. Regalado succinctly explains the principle in this wise:

“x x x. When, as in this case, the accused escaped after his arraignment and during the trial, but the trial in absentia proceeded resulting in the promulgation of a judgment against him and his counsel appealed, since he nonetheless remained at large his appeal must be dismissed by analogy with the aforesaid provision of this Rule [Rule 124, §8 of the Rules on Criminal Procedure]. x x x”[14]

The accused cannot be accorded the right to appeal unless they voluntarily submit to the jurisdiction of the court or are otherwise arrested within 15 days from notice of the judgment against them.[15] While at large, they cannot seek relief from the court, as they are deemed to have waived the appeal.[16]

Finality of a Decision in a Criminal Case

As to when a judgment of conviction attains finality is explained in Section 7 of Rule 120 of the 2000 Rules of Criminal Procedure, which we quote:

“A judgment of conviction may, upon motion of the accused, be modified or set aside before it becomes final or before appeal is perfected. Except where the death penalty is imposed, a judgment becomes final after the lapse of the period for perfecting an appeal, or when the sentence has been partially or totally satisfied or served, or when the accused has waived in writing his right to appeal, or has applied for probation.”

In the case before us, the accused-employee has escaped and refused to surrender to the proper authorities; thus, he is deemed to have abandoned his appeal. Consequently, the judgment against him has become final and executory.[17]

Liability of an Employer in a Finding of Guilt

Article 102 of the Revised Penal Code states the subsidiary civil liabilities of innkeepers, as follows:

“In default of the persons criminally liable, innkeepers, tavernkeepers, and any other persons or corporations shall be civilly liable for crimes committed in their establishments, in all cases where a violation of municipal ordinances or some general or special police regulation shall have been committed by them or their employees.

“Innkeepers are also subsidiary liable for restitution of goods taken by robbery or theft within their houses from guests lodging therein, or for payment of the value thereof, provided that such guests shall have notified in advance the innkeeper himself, or the person representing him, of the deposit of such goods within the inn; and shall furthermore have followed the directions which such innkeeper or his representative may have given them with respect to the care and vigilance over such goods. No liability shall attach in case of robbery with violence against or intimidation of persons unless committed by the innkeeper’s employees.”

Moreover, the foregoing subsidiary liability applies to employers, according to Article 103 which reads:

“The subsidiary liability established in the next preceding article shall also apply 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.”

Having laid all these basic rules and principles, we now address the main issue raised by petitioner.

Civil Liability Deemed Instituted in the Criminal Prosecution

At the outset, we must explain that the 2000 Rules of Criminal Procedure has clarified what civil actions are deemed instituted in a criminal prosecution.

Section 1 of Rule 111 of the current Rules of Criminal Procedure provides:

“When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

“x x x x x x x x”

Only the civil liability of the accused arising from the crime charged is deemed impliedly instituted in a criminal action, that is, unless the offended party waives the civil action, reserves the right to institute it separately, or institutes it prior to the criminal action.[18] Hence, the subsidiary civil liability of the employer under Article 103 of the Revised Penal Code may be enforced by execution on the basis of the judgment of conviction meted out to the employee.[19]

It is clear that the 2000 Rules deleted the requirement of reserving independent civil actions and allowed these to proceed separately from criminal actions. Thus, the civil actions referred to in Articles 32,[20] 33,[21]34[22] and 2176[23] of the Civil Code shall remain “separate, distinct and independent” of any criminal prosecution based on the same act. Here are some direct consequences of such revision and omission:

- The right to bring the foregoing actions based on the Civil Code need not be reserved in the criminal prosecution, since they are not deemed included therein.
- The institution or the waiver of the right to file a separate civil action arising from the crime charged does not extinguish the right to bring such action.
- The only limitation is that the offended party cannot recover more than once for the same act or omission.[24]

What is deemed instituted in every criminal prosecution is the civil liability arising from the crime or delict per se (civil liability ex delicto), but not those liabilities arising from quasi-delicts, contracts or quasi-contracts. In fact, even if a civil action is filed separately, the ex delicto civil liability in the criminal prosecution remains, and the offended party may --subject to the control of the prosecutor -- still intervene in the criminal action, in order to protect the remaining civil interest therein.[25]

This discussion is completely in accord with the Revised Penal Code, which states that “[e]very person criminally liable for a felony is also civilly liable.”[26]

Petitioner argues that, as an employer, it is considered a party to the criminal case and is conclusively bound by the outcome thereof. Consequently, petitioner must be accorded the right to pursue the case to its logical conclusion -- including the appeal.

The argument has no merit. Undisputedly, petitioner is not a direct party to the criminal case, which was filed solely against Napoleon M. Roman, its employee.

In its Memorandum, petitioner cited a comprehensive list of cases dealing with the subsidiary liability of employers. Thereafter, it noted that none can be applied to it, because “in all th[o]se cases, the accused’s employer did not interpose an appeal.”[27] Indeed, petitioner cannot cite any single case in which the employer appealed, precisely because an appeal in such circumstances is not possible.

The cases dealing with the subsidiary liability of employers uniformly declare that, strictly speaking, they are not parties to the criminal cases instituted against their employees.[28] Although in substance and in effect, they have an interest therein, this fact should be viewed in the light of their subsidiary liability. While they may assist their employees to the extent of supplying the latter’s lawyers, as in the present case, the former cannot act independently on their own behalf, but can only defend the accused.

Waiver of Constitutional Safeguard Against Double Jeopardy

Petitioner’s appeal obviously aims to have the accused-employee absolved of his criminal responsibility and the judgment reviewed as a whole. These intentions are apparent from its Appellant’s Brief[29] filed with the CA and from its Petition[30] before us, both of which claim that the trial court’s finding of guilt “is not supported by competent evidence.”[31]

An appeal from the sentence of the trial court implies a waiver of the constitutional safeguard against double jeopardy and throws the whole case open to a review by the appellate court. The latter is then called upon to render judgment as law and justice dictate, whether favorable or unfavorable to the appellant.[32] This is the risk involved when the accused decides to appeal a sentence of conviction.[33] Indeed, appellate courts have the power to reverse, affirm or modify the judgment of the lower court and to increase or reduce the penalty it imposed.[34]

If the present appeal is given course, the whole case against the accused-employee becomes open to review. It thus follows that a penalty higher than that which has already been imposed by the trial court may be meted out to him. Petitioner’s appeal would thus violate his right against double jeopardy, since the judgment against him could become subject to modification without his consent.

We are not in a position to second-guess the reason why the accused effectively waived his right to appeal by jumping bail. It is clear, though, that petitioner may not appeal without violating his right against double jeopardy.

Effect of Absconding on the Appeal Process

Moreover, within the meaning of the principles governing the prevailing criminal procedure, the accused impliedly withdrew his appeal by jumping bail and thereby made the judgment of the court below final.[35] Having been a fugitive from justice for a long period of time, he is deemed to have waived his right to appeal. Thus, his conviction is now final and executory. The Court in *People v. Ang Gioc*[36] ruled:

“There are certain fundamental rights which cannot be waived even by the accused himself, but the right of appeal is not one of them. This right is granted solely for the benefit of the accused. He may avail of it or not, as he pleases. He may waive it either expressly or by implication. When the accused flees after the case has been submitted to the court for decision, he will be deemed to have waived his right to appeal from the judgment rendered against him. x x x.”[37]

By fleeing, the herein accused exhibited contempt of the authority of the court and placed himself in a position to speculate on his chances for a reversal. In the process, he kept himself out of the reach of justice, but hoped to render the judgment nugatory at his option.[38] Such conduct is intolerable and does not invite leniency on the part of the appellate court.[39]

Consequently, the judgment against an appellant who escapes and who refuses to surrender to the proper authorities becomes final and executory.[40]

Thus far, we have clarified that petitioner has no right to appeal the criminal case against the accused-employee; that by jumping bail, he has waived his right to appeal; and that the judgment in the criminal case against him is now final.

Subsidiary Liability Upon Finality of Judgment

As a matter of law, the subsidiary liability of petitioner now accrues. Petitioner argues that the rulings of this Court in *Miranda v. Malate Garage & Taxicab, Inc.*,[41] *Alvarez v. CA*[42] and *Yusay v. Adil*[43] do not apply to the present case, because it has followed the Court’s directive to the employers in these cases to take part in the criminal cases against their employees. By participating in the defense of its employee, herein petitioner tries to shield itself from the undisputed rulings laid down in these leading cases.

Such posturing is untenable. In dissecting these cases on subsidiary liability, petitioner lost track of the most basic tenet they have laid down -- that an employer’s liability in a finding of guilt against its accused-employee is subsidiary.

Under Article 103 of the Revised Penal Code, employers are subsidiarily liable for the adjudicated civil liabilities of their employees in the event of the latter’s insolvency.[44] The provisions of the Revised Penal Code on subsidiary liability -- Articles 102 and 103 -- are deemed written into the judgments in the cases to which they are applicable.[45] Thus, in the dispositive portion of its decision, the trial court need not expressly pronounce the subsidiary liability of the employer.

In the absence of any collusion between the accused-employee and the offended party, the judgment of conviction should bind the person who is subsidiarily liable.[46] In effect and implication, the stigma of a criminal conviction surpasses mere civil liability.[47]

To allow employers to dispute the civil liability fixed in a criminal case would enable them to amend, nullify or defeat a final judgment rendered by a competent court.[48] By the same token, to allow them to appeal the final criminal conviction of their employees without the latter’s consent would also result in improperly amending, nullifying or defeating the judgment.

The decision convicting an employee in a criminal case is binding and conclusive upon the employer not only with regard to the former’s civil liability, but also with regard to its amount. The liability of an employer cannot be separated from that of the employee.[49]

Before the employers’ subsidiary liability is exacted, however, there must be adequate evidence establishing that

(1) they are indeed the employers of the convicted employees; (2) that the former are engaged in some kind of industry; (3) that the crime was committed by the employees in the discharge of their duties; and (4) that the execution against the latter has not been satisfied due to insolvency.[50]

The resolution of these issues need not be done in a separate civil action. But the determination must be based on the evidence that the offended party and the employer may fully and freely present. Such determination may be done in the same criminal action in which the employee's liability, criminal and civil, has been pronounced;[51] and in a hearing set for that precise purpose, with due notice to the employer, as part of the proceedings for the execution of the judgment.

Just because the present petitioner participated in the defense of its accused-employee does not mean that its liability has transformed its nature; its liability remains subsidiary. Neither will its participation erase its subsidiary liability. The fact remains that since the accused-employee's conviction has attained finality, then the subsidiary liability of the employer ipso facto attaches.

According to the argument of petitioner, fairness dictates that while the finality of conviction could be the proper sanction to be imposed upon the accused for jumping bail, the same sanction should not affect it. In effect, petitioner-employer splits this case into two: first, for itself; and second, for its accused-employee.

The untenability of this argument is clearly evident. There is only one criminal case against the accused-employee. A finding of guilt has both criminal and civil aspects. It is the height of absurdity for this single case to be final as to the accused who jumped bail, but not as to an entity whose liability is dependent upon the conviction of the former.

The subsidiary liability of petitioner is incidental to and dependent on the pecuniary civil liability of the accused-employee. Since the civil liability of the latter has become final and enforceable by reason of his flight, then the former's subsidiary civil liability has also become immediately enforceable. Respondent is correct in arguing that the concept of subsidiary liability is highly contingent on the imposition of the primary civil liability.

No Deprivation of Due Process

As to the argument that petitioner was deprived of due process, we reiterate that what is sought to be enforced is the subsidiary civil liability incident to and dependent upon the employee's criminal negligence. In other words, the employer becomes ipso facto subsidiarily liable upon the conviction of the employee and upon proof of the latter's insolvency, in the same way that acquittal wipes out not only his primary civil liability, but also his employer's subsidiary liability for his criminal negligence.[52]

It should be stressed that the right to appeal is neither a natural right nor a part of due process.[53] It is merely a procedural remedy of statutory origin, a remedy that may be exercised only in the manner prescribed by the provisions of law authorizing such exercise.[54] Hence, the legal requirements must be strictly complied with.[55]

It would be incorrect to consider the requirements of the rules on appeal as merely harmless and trivial technicalities that can be discarded.[56] Indeed, deviations from the rules cannot be tolerated.[57] In these times when court dockets are clogged with numerous litigations, such rules have to be followed by parties with greater fidelity, so as to facilitate the orderly disposition of those cases.[58]

After a judgment has become final, vested rights are acquired by the winning party. If the proper losing party has the right to file an appeal within the prescribed period, then the former has the correlative right to enjoy the finality of the resolution of the case.[59]

In fact, petitioner admits that by helping the accused-employee, it participated in the proceedings before the RTC; thus, it cannot be said that the employer was deprived of due process. It might have lost its right to appeal, but it was not denied its day in court.[60] In fact, it can be said that by jumping bail, the accused-employee, not the court, deprived petitioner of the right to appeal.

All told, what is left to be done is to execute the RTC Decision against the accused. It should be clear that only after proof of his insolvency may the subsidiary liability of petitioner be enforced. It has been sufficiently proven that there exists an employer-employee relationship; that the employer is engaged in some kind of industry; and that the employee has been adjudged guilty of the wrongful act and found to have committed the offense in the discharge of his duties. The proof is clear from the admissions of petitioner that “[o]n 26 August 1990, while on its regular trip from Laoag to Manila, a passenger bus owned by petitioner, being then operated by petitioner’s driver, Napoleon Roman, figured in an accident in San Juan, La Union x x x.”[61] Neither does petitioner dispute that there was already a finding of guilt against the accused while he was in the discharge of his duties.

WHEREFORE, the Petition is hereby DENIED, and the assailed Resolutions AFFIRMED. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 9-28.

[2] Id., pp. 30-34. Penned by Justice Mariano M. Umali and concurred in by Justices Conrado M. Vasquez Jr. (Division chair) and Edgardo P. Cruz (member).

[3] Id., pp. 36-37.

[4] CA Decision, p. 5; rollo, p. 34.

[5] Annex “G” of the Petition; rollo, pp. 115-124.

[6] CA Decision, pp. 2-4; rollo, pp. 31-33.

[7] The case was deemed submitted for resolution on April 24, 2002, upon this Court’s receipt of respondent’s Memorandum signed by Assistant Solicitors General Carlos N. Ortega and Roman G. del Rosario and Associate Solicitor Elizabeth Victoria L. Medina. Petitioner’s Memorandum, signed by Atty. Ramon M. Nisce, was received by the Court on April 9, 2002.

[8] Petitioner’s Memorandum, p. 8; rollo, p. 200.

[9] Regalado, Remedial Law Compendium, Vol. II (2001, 9th revised edition), p. 502.

[10] Ibid.

[11] People v. Ursua, 60 Phil. 252, August 1, 1934.

[12] This is substantially the same as the 1985 Rules on Criminal Procedure.

[13] People v. Del Rosario, 348 SCRA 603, December 19, 2000.

[14] Regalado, Remedial Law Compendium, supra, p. 540.

[15] Ibid.

[16] Ibid., citing *People v. Mapalao*, 274 Phil. 354, May 14, 1991.

[17] *People v. Enoja*, 378 Phil. 623, December 17, 1999.

[18] Panganiban, *Transparency, Unanimity & Diversity* (2000 ed.), pp. 211-212.

[19] Id., p. 212.

[20] “ART. 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

“(1) Freedom of religion;

“(2) Freedom of speech;

“(3) Freedom to write for the press or to maintain a periodical publication;

“(4) Freedom from arbitrary or illegal detention;

“(5) Freedom of suffrage;

“(6) The right against deprivation of property without due process of law;

“(7) The right to a just compensation when private property is taken for public use;

“(8) The right to the equal protection of the laws;

“(9) The right to be secure in one’s person, house, papers, and effects against unreasonable searches and seizures;

“(10) The liberty of abode and of changing the same;

“(11) The privacy of communication and correspondence;

“(12) The right to become a member of associations or societies for purposes not contrary to law;

“(13) The right to take part in a peaceable assembly to petition the Government for redress of grievances;

“(14) The right to be free from involuntary servitude in any form;

“(15) The right of the accused against excessive bail;

“(16) The right of the accused to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witness in his behalf;

“(17) Freedom from being compelled to be a witness against one’s self, or from being forced to confess guilt, or from being induced by a promise of immunity or reward to make such confession, except when the person confessing becomes a State witness;

“(18) Freedom from excessive fines, or cruel and unusual punishment, unless the same is imposed or inflicted in accordance with a statute which has not been judicially declared unconstitutional; and

“(19) Freedom of access to the courts.

“In any of the cases referred to in this article, whether or not the defendant’s act or omission constitutes a criminal offense, the aggrieved party has a right to commence an entirely separate and distinct civil action for damages, and for other relief. Such civil action shall proceed independently of any criminal prosecution (if the

latter be instituted), and may be proved by a preponderance of evidence.

“The indemnity shall include moral damages. Exemplary damages may also be adjudicated.

“The responsibility herein set forth is not demandable from a judge unless his act or omission constitutes a violation of the Penal Code or other penal statute.”

[21] “ART. 33. In cases of defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party. Such civil action shall proceed independently of the criminal prosecution, and shall require only a preponderance of evidence.”

[22] “ART. 34. When a member of a city or municipal police force refuses or fails to render aid or protection to any person in case of danger to life or property, such peace officer shall be primarily liable for damages, and the city or municipality shall be subsidiarily responsible therefor. The civil action herein recognized shall be independent of any criminal proceedings, and a preponderance of evidence shall suffice to support such action.”

[23] “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. (1902a)”

[24] Panganiban, Transparency, Unanimity & Diversity, *supra*, p. 214.

[25] *Id.*, pp. 214-215.

[26] Article 100 of the Revised Penal Code.

[27] Petitioner’s Memorandum, p. 13; rollo, p. 205.

[28] *Miranda v. Malate Garage & Taxicab, Inc.*, 99 Phil. 670, July 31, 1956.

[29] CA rollo, pp. 66-108.

[30] Rollo, pp. 9-28.

[31] Appellant’s Brief, p. 14; CA rollo, p. 84.

[32] *Lontoc v. People*, 74 Phil. 513, December 29, 1943.

[33] *People v. Rondero*, 320 SCRA 383, December 9, 1999.

[34] *Lontoc v. People*, *supra*; *United States v. Abijan*, 1 Phil. 83, January 7, 1902. See also §11 of Rule 124 of the 2000 Revised Rules of Criminal Procedure.

[35] Francisco, *Criminal Procedure* (1996, 3rd ed.), p. 520.

[36] 73 Phil. 366, October 31, 1941.

[37] *Id.*, p. 369, per Abad Santos, J.

[38] Francisco, *Criminal Procedure*, *supra*, p. 520.

[39] *Ibid.*

[40] *People v. Enoja*, *supra*.

[41] *Supra* at note 28.

[42] 158 SCRA 57, February 23, 1988.

- [43] 164 SCRA 494, August 18, 1988.
- [44] Lagazon v. Reyes, 166 SCRA 386, October 18, 1988.
- [45] Alvarez v. CA, supra.
- [46] Martinez v. Barredo, 81 Phil. 1, May 13, 1948.
- [47] Ibid.
- [48] Yusay v. Adil, supra; Pajarito v. Señeris, 87 SCRA 275, December 14, 1978.
- [49] Lagazon v. Reyes, supra; Miranda v. Malate Garage & Taxicab, Inc., supra.
- [50] Ozoa v. Vda de Madula, 156 SCRA 779, December 22, 1987.
- [51] Ibid.
- [52] Alvarez v. CA, supra; Martinez v. Barredo, supra.
- [53] Neplum, Inc. v. Orbeso, 384 SCRA 466, July 11, 2002.
- [54] Oro v. Judge Diaz, 361 SCRA 108, July 11, 2001; Mercury Drug Corp. v. CA, 390 Phil. 902, July 13, 2000; Ortiz v. CA, 299 SCRA 708, December 4, 1998.
- [55] Pedrosa v. Hill, 257 SCRA 373, June 14, 1996; Del Rosario v. CA, 241 SCRA 553, February 22, 1995.
- [56] Casim v. Flordeliza, 374 SCRA 386, January 23, 2002.
- [57] People v. Marong, 119 SCRA 430, December 27, 1982.
- [58] Del Rosario v. CA, supra.
- [59] Videogram Regulatory Board v. CA, 265 SCRA 50, November 28, 1996.
- [60] Neplum, Inc. v. Orbeso, supra.
- [61] Petition for Review, p. 2; rollo, p. 10; Memorandum for Petitioner, p. 2; rollo, p. 194.

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