

JOHN ERIC LONEY, STEVEN PAUL REID AND PEDRO B. HERNANDEZ, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 152644. February 10, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] of the Decision[2] dated 5 November 2001 and the Resolution dated 14 March 2002 of the Court of Appeals. The 5 November 2001 Decision affirmed the ruling of the Regional Trial Court, Boac, Marinduque, Branch 94, in a suit to quash Informations filed against petitioners John Eric Loney, Steven Paul Reid, and Pedro B. Hernandez ("petitioners"). The 14 March 2002 Resolution denied petitioners' motion for reconsideration.

The Facts

Petitioners John Eric Loney, Steven Paul Reid, and Pedro B. Hernandez are the President and Chief Executive Officer, Senior Manager, and Resident Manager for Mining Operations, respectively, of Marcopper Mining Corporation ("Marcopper"), a corporation engaged in mining in the province of Marinduque

Marcopper had been storing tailings[3] from its operations in a pit in Mt. Tapan, Marinduque. At the base of the pit ran a drainage tunnel leading to the Boac and Makalupnit rivers. It appears that Marcopper had placed a concrete plug at the tunnel's end. On 24 March 1994, tailings gushed out of or near the tunnel's end. In a few days, the Mt. Tapan pit had discharged millions of tons of tailings into the Boac and Makalupnit rivers.

In August 1996, the Department of Justice separately charged petitioners in the Municipal Trial Court of Boac, Marinduque ("MTC") with violation of Article 91(B),[4] sub-paragraphs 5 and 6 of Presidential Decree No. 1067 or the Water Code of the Philippines ("PD 1067"),[5] Section 8[6] of Presidential Decree No. 984 or the National Pollution Control Decree of 1976 ("PD 984"),[7] Section 108[8] of Republic Act No. 7942 or the Philippine Mining Act of 1995 ("RA 7942"),[9] and Article 365[10] of the Revised Penal Code ("RPC") for Reckless Imprudence Resulting in Damage to Property.[11]

Petitioners moved to quash the Informations on the following grounds: (1) the Informations were "duplicious" as the Department of Justice charged more than one offense for a single act; (2) petitioners John Eric Loney and Steven Paul Reid were not yet officers of Marcopper when the incident subject of the Informations took place; and (3) the Informations contain allegations which constitute legal excuse or justification.

The Ruling of the MTC

In its Joint Order of 16 January 1997 ("Joint Order"), the MTC[12] initially deferred ruling on petitioners' motion for lack of "indubitable ground for the quashing of the [I]nformations x x x." The MTC scheduled petitioners' arraignment in February 1997. However, on petitioners' motion, the MTC issued a Consolidated Order on 28

April 1997 ("Consolidated Order"), granting partial reconsideration to its Joint Order and quashing the Informations for violation of PD 1067 and PD 984. The MTC maintained the Informations for violation of RA 7942 and Article 365 of the RPC. The MTC held:

[T]he 12 Informations have common allegations of pollutants pointing to "mine tailings" which were precipitately discharged into the Makulapnit and Boac Rivers due to breach caused on the Tapan drainage/tunnel due to negligence or failure to institute adequate measures to prevent pollution and siltation of the Makulapnit and Boac River systems, the very term and condition required to be undertaken under the Environmental Compliance Certificate issued on April 1, 1990.

The allegations in the informations point to same set [sic] of evidence required to prove the single fact of pollution constituting violation of the Water Code and the Pollution Law which are the same set of evidence necessary to prove the same single fact of pollution, in proving the elements constituting violation of the conditions of ECC, issued pursuant to the Philippine Mining Act. In both instances, the terms and conditions of the Environmental Compliance Certificate were allegedly violated. In other words, the same set of evidence is required in proving violations of the three (3) special laws.

After carefully analyzing and weighing the contending arguments of the parties and after taking into consideration the applicable laws and jurisprudence, the Court is convinced that as far as the three (3) aforesaid laws are concerned, only the Information for [v]iolation of Philippine Mining Act should be maintained. In other words, the Informations for [v]iolation of Anti-Pollution Law (PD 984) and the Water Code (PD 1067) should be dismissed/quashed because the elements constituting the aforesaid violations are absorbed by the same elements which constitute violation of the Philippine Mining Act (RA 7942).

Therefore, x x x Criminal Case[] Nos. 96-44, 96-45 and 96-46 for [v]iolation of the Water Code; and Criminal Case[] Nos. 96-47, 96-48 and 96-49 for [v]iolation of the Anti-Pollution Law x x x are hereby DISMISSED or QUASHED and Criminal Case[] Nos. 96-50, 96-51 and 96-52 for [v]iolation of the Philippine Mining Act are hereby retained to be tried on the merits.

The Information for [v]iolation of Article 365 of the Revised Penal Code should also be maintained and heard in a full blown trial because the common accusation therein is reckless imprudence resulting to [sic] damage to property. It is the damage to property which the law punishes not the negligent act of polluting the water system. The prosecution for the [v]iolation of Philippine Mining Act is not a bar to the prosecution for reckless imprudence resulting to [sic] damage to property.[13]

The MTC re-scheduled petitioners' arraignment on the remaining charges on 28 and 29 May 1997. In the hearing of 28 May 1997, petitioners manifested that they were willing to be arraigned on the charge for violation of Article 365 of the RPC but not on the charge for violation of RA 7942 as they intended to appeal the Consolidated Order in so far as it maintained the Informations for that offense. After making of record petitioners' manifestation, the MTC proceeded with the arraignment and ordered the entry of "not guilty" pleas on the charges for violation of RA 7942 and Article 365 of the RPC.

Petitioners subsequently filed a petition for certiorari with the Regional Trial Court, Boac, Marinduque, assailing that portion of the Consolidated Order maintaining the Informations for violation of RA 7942. Petitioners' petition was raffled to Branch 94. For its part, public respondent filed an ordinary appeal with the same court assailing that portion of the Consolidated Order quashing the Informations for violation of PD 1067 and PD 984. Public respondent's appeal was raffled to Branch 38. On public respondent's motion, Branch 38 ordered public respondent's appeal consolidated with petitioners' petition in Branch 94.

The Ruling of Branch 94

In its Resolution[14]of 20 March 1998, Branch 94 granted public respondent's appeal but denied petitioners'

petition. Branch 94 set aside the Consolidated Order in so far as it quashed the Informations for violation of PD 1067 and PD 984 and ordered those charges reinstated. Branch 94 affirmed the Consolidated Order in all other respects. Branch 94 held:

After a careful perusal of the laws concerned, this court is of the opinion that there can be no absorption by one offense of the three other offenses, as [the] acts penalized by these laws are separate and distinct from each other. The elements of proving each violation are not the same with each other. Concededly, the single act of dumping mine tailings which resulted in the pollution of the Makulapnit and Boac rivers was the basis for the information[s] filed against the accused each charging a distinct offense. But it is also a well-established rule in this jurisdiction that –

"A single act may offend against two or more entirely distinct and unrelated provisions of law, and if one provision requires proof of an additional fact or element which the other does not, an acquittal or conviction or a dismissal of the information under one does not bar prosecution under the other. x x x."

x x x x

[T]he different laws involve cannot absorb one another as the elements of each crime are different from one another. Each of these laws require [sic] proof of an additional fact or element which the other does not although they stemmed from a single act.[15]

Petitioners filed a petition for certiorari with the Court of Appeals alleging that Branch 94 acted with grave abuse of discretion because (1) the Informations for violation of PD 1067, PD 984, RA 7942 and the Article 365 of the RPC "proceed from and are based on a single act or incident of polluting the Boac and Makalupnit rivers thru dumping of mine tailings" and (2) the duplicitous nature of the Informations contravenes the ruling in *People v. Relova*.^[16] Petitioners further contended that since the acts complained of in the charges for violation of PD 1067, PD 984, and RA 7942 are "the very same acts complained of" in the charge for violation of Article 365 of the RPC, the latter absorbs the former. Hence, petitioners should only be prosecuted for violation of Article 365 of the RPC.^[17]

The Ruling of the Court of Appeals

In its Decision of 5 November 2001, the Court of Appeals affirmed Branch 94's ruling. The appellate court held:

The records of the case disclose that petitioners filed a motion to quash the aforementioned Informations for being duplicitous in nature. Section 3 of Rule 117 of the Revised Rules of Court specifically provides the grounds upon which an information may be quashed. x x x

x x x x

[D]uplicity of Informations is not among those included in x x x [Section 3, Rule 117].

x x x x

We now go to petitioners' claim that the resolution of the public respondent contravened the doctrine laid down in *People vs. Relova* for being violative of their right against multiple prosecutions.

In the said case, the Supreme Court found the People's argument with respect to the variances in the mens rea of the two offenses being charged to be correct. The Court, however, decided the case in the context of the second sentence of Article IV (22) of the 1973 Constitution (now under Section 21 of Article III of the 1987 Constitution), rather than the first sentence of the same section. x x x

x x x x

[T]he doctrine laid down in the Relova case does not squarely apply to the case at Bench since the Informations filed against the petitioners are for violation of four separate and distinct laws which are national in character.

x x x x

This Court firmly agrees in the public respondent's understanding that the laws by which the petitioners have been [charged] could not possibly absorb one another as the elements of each crime are different. Each of these laws require [sic] proof of an additional fact or element which the other does not, although they stemmed from a single act. x x x

x x x x

[T]his Court finds that there is not even the slightest indicia of evidence that would give rise to any suspicion that public respondent acted with grave abuse of discretion amounting to excess or lack of jurisdiction in reversing the Municipal Trial Court's quashal of the Informations against the petitioners for violation of P.D. 1067 and P.D. 984. This Court equally finds no error in the trial court's denial of the petitioner's motion to quash R.A. 7942 and Article 365 of the Revised Penal Code.[18]

Petitioners sought reconsideration but the Court of Appeals denied their motion in its Resolution of 14 March 2002.

Petitioners raise the following alleged errors of the Court of Appeals:

- THE COURT OF APPEALS COMMITTED A R[E]VERSIBLE ERROR IN MAINTAINING THE CHARGES FOR VIOLATION OF THE PHILIPPINE MINING ACT (R.A. 7942) AND REINSTATING THE CHARGES FOR VIOLATION OF THE WATER CODE (P.D. 1067) AND POLLUTION CONTROL LAW (P.D. 984), CONSIDERING THAT:
- THE INFORMATIONS FOR VIOLATION OF THE WATER CODE (P.D. 1067), THE POLLUTION CONTROL LAW (P.D. 984), THE PHILIPPINE MINING ACT (R.A. 7942) AND ARTICLE 365 OF THE REVISED PENAL CODE PROCEED FROM AND ARE BASED ON A SINGLE ACT OR INCIDENT OF POLLUTING THE BOAC AND MAKULAPNIT RIVERS THRU DUMPING OF MINE TAILINGS.
- THE PROSECUTION OF PETITIONERS FOR DUPLICITOUS AND MULTIPLE CHARGES CONTRAVENES THE DOCTRINE LAID DOWN IN PEOPLE VS. RELOVA, 148 SCRA 292 [1986] THAT "AN ACCUSED SHOULD NOT BE HARASSED BY MULTIPLE PROSECUTIONS FOR OFFENSES WHICH THOUGH DIFFERENT FROM ONE ANOTHER ARE NONETHELESS EACH CONSTITUTED BY A COMMON SET OR OVERLAPPING SETS OF TECHNICAL ELEMENTS."
- THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN RULING THAT THE ELEMENT OF LACK OF NECESSARY OR ADEQUATE PRECAUTION, NEGLIGENCE, RECKLESSNESS AND IMPRUDENCE UNDER ARTICLE 356 [sic] OF THE REVISED PENAL CODE DOES NOT FALL WITHIN THE AMBIT OF ANY OF THE ELEMENTS OF THE PERTINENT PROVISIONS OF THE WATER CODE, POLLUTION CONTROL LAW AND PHILIPPINE MINING ACT CHARGED AGAINST PETITIONERS[.][19]

The Issues

The petition raises these issues:

(1)

Whether all the charges filed against petitioners except one should be quashed for duplicity of charges and only the charge for Reckless Imprudence Resulting in Damage to Property should stand; and

(2)

Whether Branch 94's ruling, as affirmed by the Court of Appeals, contravenes *People v. Relova*.

The Ruling of the Court

The petition has no merit.

No Duplicity of Charges in the Present Case

Duplicity of charges simply means a single complaint or information charges more than one offense, as Section 13 of Rule 110[20] of the 1985 Rules of Criminal Procedure clearly states:

Duplicity of offense. – A complaint or information must charge but one offense, except only in those cases in which existing laws prescribe a single punishment for various offenses.

In short, there is duplicity (or multiplicity) of charges when a single Information charges more than one offense.[21]

Under Section 3(e), Rule 117[22] of the 1985 Rules of Criminal Procedure, duplicity of offenses in a single information is a ground to quash the Information. The Rules prohibit the filing of such Information to avoid confusing the accused in preparing his defense.[23] Here, however, the prosecution charged each petitioner with four offenses, with each Information charging only one offense. Thus, petitioners erroneously invoke duplicity of charges as a ground to quash the Informations. On this score alone, the petition deserves outright denial.

The Filing of Several Charges is Proper

Petitioners contend that they should be charged with one offense only — Reckless Imprudence Resulting in Damage to Property — because (1) all the charges filed against them "proceed from and are based on a single act or incident of polluting the Boac and Makalupnit rivers thru dumping of mine tailings" and (2) the charge for violation of Article 365 of the RPC "absorbs" the other charges since the element of "lack of necessary or adequate protection, negligence, recklessness and imprudence" is common among them.

The contention has no merit.

As early as the start of the last century, this Court had ruled that a single act or incident might offend against two or more entirely distinct and unrelated provisions of law thus justifying the prosecution of the accused for more than one offense.[24] The only limit to this rule is the Constitutional prohibition that no person shall be twice put in jeopardy of punishment for "the same offense." [25] In *People v. Doriquez*, [26] we held that two (or more) offenses arising from the same act are not "the same" —

x x x if one provision [of law] requires proof of an additional fact or element which the other does not, x x x. Phrased otherwise, where two different laws (or articles of the same code) define two crimes, prior jeopardy as to one of them is no obstacle to a prosecution of the other, although both offenses arise from the same facts, if each crime involves some important act which is not an essential element of the other.[27] (Emphasis supplied)

Here, double jeopardy is not at issue because not all of its elements are present.[28] However, for the limited purpose of controverting petitioners' claim that they should be charged with one offense only, we quote with

approval Branch 94's comparative analysis of PD 1067, PD 984, RA 7942, and Article 365 of the RPC showing that in each of these laws on which petitioners were charged, there is one essential element not required of the others, thus:

In P.D. 1067 (Philippines Water Code), the additional element to be established is the dumping of mine tailings into the Makulapnit River and the entire Boac River System without prior permit from the authorities concerned. The gravamen of the offense here is the absence of the proper permit to dump said mine tailings. This element is not indispensable in the prosecution for violation of PD 984 (Anti-Pollution Law), [RA] 7942 (Philippine Mining Act) and Art. 365 of the Revised Penal Code. One can be validly prosecuted for violating the Water Code even in the absence of actual pollution, or even [if] it has complied with the terms of its Environmental Compliance Certificate, or further, even [if] it did take the necessary precautions to prevent damage to property.

In P.D. 984 (Anti-Pollution Law), the additional fact that must be proved is the existence of actual pollution. The gravamen is the pollution itself. In the absence of any pollution, the accused must be exonerated under this law although there was unauthorized dumping of mine tailings or lack of precaution on its part to prevent damage to property.

In R.A. 7942 (Philippine Mining Act), the additional fact that must be established is the willful violation and gross neglect on the part of the accused to abide by the terms and conditions of the Environmental Compliance Certificate, particularly that the Marcopper should ensure the containment of run-off and silt materials from reaching the Mogpog and Boac Rivers. If there was no violation or neglect, and that the accused satisfactorily proved [sic] that Marcopper had done everything to ensure containment of the run-off and silt materials, they will not be liable. It does not follow, however, that they cannot be prosecuted under the Water Code, Anti-Pollution Law and the Revised Penal Code because violation of the Environmental Compliance Certificate is not an essential element of these laws.

On the other hand, the additional element that must be established in Art. 365 of the Revised Penal Code is the lack of necessary or adequate precaution, negligence, recklessness and imprudence on the part of the accused to prevent damage to property. This element is not required under the previous laws. Unquestionably, it is different from dumping of mine tailings without permit, or causing pollution to the Boac river system, much more from violation or neglect to abide by the terms of the Environmental Compliance Certificate. Moreover, the offenses punished by special law are mal[a] prohibita in contrast with those punished by the Revised Penal Code which are mala in se.[29]

Consequently, the filing of the multiple charges against petitioners, although based on the same incident, is consistent with settled doctrine.

On petitioners' claim that the charge for violation of Article 365 of the RPC "absorbs" the charges for violation of PD 1067, PD 984, and RA 7942, suffice it to say that a mala in se felony (such as Reckless Imprudence Resulting in Damage to Property) cannot absorb mala prohibita crimes (such as those violating PD 1067, PD 984, and RA 7942). What makes the former a felony is criminal intent (dolo) or negligence (culpa); what makes the latter crimes are the special laws enacting them.

People v. Relova not in Point

Petitioners reiterate their contention in the Court of Appeals that their prosecution contravenes this Court's ruling in People v. Relova. In particular, petitioners cite the Court's statement in Relova that the law seeks to prevent harassment of the accused by "multiple prosecutions for offenses which though different from one another are nonetheless each constituted by a common set or overlapping sets of technical elements."

This contention is also without merit.

The issue in *Relova* is whether the act of the Batangas Acting City Fiscal in charging one Manuel Oplencia ("Oplencia") with theft of electric power under the RPC, after the latter had been acquitted of violating a City Ordinance penalizing the unauthorized installation of electrical wiring, violated Oplencia's right against double jeopardy. We held that it did, not because the offenses punished by those two laws were the same but because the act giving rise to the charges was punished by an ordinance and a national statute, thus falling within the proscription against multiple prosecutions for the same act under the second sentence in Section 22, Article IV of the 1973 Constitution, now Section 21, Article III of the 1987 Constitution. We held:

The petitioner concludes that:

"The unauthorized installation punished by the ordinance [of Batangas City] is not the same as theft of electricity [under the Revised Penal Code]; that the second offense is not an attempt to commit the first or a frustration thereof and that the second offense is not necessarily included in the offense charged in the first information."

The above argument[] made by the petitioner [is] of course correct. This is clear both from the express terms of the constitutional provision involved – which reads as follows:

"No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act." x x x

and from our case law on this point. The basic difficulty with the petitioner's position is that it must be examined, not under the terms of the first sentence of Article IV (22) of the 1973 Constitution, but rather under the second sentence of the same section. The first sentence of Article IV (22) sets forth the general rule: the constitutional protection against double jeopardy is not available where the second prosecution is for an offense that is different from the offense charged in the first or prior prosecution, although both the first and second offenses may be based upon the same act or set of acts. The second sentence of Article IV (22) embodies an exception to the general proposition: the constitutional protection, against double jeopardy is available although the prior offense charged under an ordinance be different from the offense charged subsequently under a national statute such as the Revised Penal Code, provided that both offenses spring from the same act or set of acts. x x x[30] (*Italicization in the original; boldfacing supplied*)

Thus, *Relova* is no authority for petitioners' claim against multiple prosecutions based on a single act not only because the question of double jeopardy is not at issue here, but also because, as the Court of Appeals held, petitioners are being prosecuted for an act or incident punished by four national statutes and not by an ordinance and a national statute. In short, petitioners, if ever, fall under the first sentence of Section 21, Article III which prohibits multiple prosecution for the same offense, and not, as in *Relova*, for offenses arising from the same incident.

WHEREFORE, we DENY the petition. We AFFIRM the Decision dated 5 November 2001 and the Resolution dated 14 March 2002 of the Court of Appeals.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales and Tinga, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Bernardo P. Abesamis with Associate Justices Ramon A. Barcelona and Perlita J. Tria Tirona, concurring.

[3] Mine tailings or mine waste refer to "soil and/or rock materials from surface or underground mining operations with no present economic value to the generator of the same" (Department of Environment and Natural Resources Administrative Order No. 96-40 (1996) ("DENR DAO No. 96-40"), Section 5[be]). Waste from milling operations or mill tailings is defined as "materials whether solid, liquid or both[,] segregated from the ores during concentration/milling operations which have no present economic value to the generator of the same" (DENR DAO No. 96-40, Section 5 [au]).

[4] This provision states: "A fine exceeding Three Thousand Pesos (P3,000.00) but not more than Six Thousand Pesos (P6,000.00) or imprisonment exceeding three (3) years but not more than six (6) years, or both such fine and imprisonment in the discretion of the Court, shall be imposed on any person who commits any of the following acts:

x x x x

5. Constructing, without prior permission of the government agency concerned, works that produce dangerous or noxious substances, or performing acts that result in the introduction of sewage, industrial waste, or any substance that pollutes a source of water supply.

6. Dumping mine tailings and sediments into rivers or waterways without permission."

[5] The Informations charging this offense were docketed as Criminal Case Nos. 96-44, 96-45, and 96-46. Except for the names of the accused and their respective designations at Marcopper, the Informations uniformly alleged (rollo, pp. 54-62):

That on or about March 24, 1996, and for sometime prior and subsequent thereto, in the municipality of Boac, province of Marinduque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, x x x, did then and there willfully, unlawfully and feloniously dispose, discharge or introduce industrial waste, particularly mine tailings, without permission into the Makulapnit River and the entire Boac River system which is a source of water supply and/or dump or cause, permit, suffer to be dumped, without permission, mine tailings or other waste matters discharged due to breach caused on its Tapan drainage pit/tunnel, thus causing pollution and siltation in the Makulapnit River and the entire Boac River system which became a dead river, resulting to damage and/or destruction of living organisms, like fish or other aquatic life in the vicinity, and to health and property in the same vicinity.

[6] This provision states: "Prohibitions. — No person shall throw, run, drain, or otherwise dispose into any of the water, air and/or land resources of the Philippines, or cause, permit, suffer to be thrown, run, drain, allow to seep or otherwise dispose thereto any organic or inorganic matter or any substance in gaseous or liquid form that shall cause pollution thereof.

No person shall perform any of the following activities without first securing a permit from the [National Pollution Control] Commission for the discharge of all industrial wastes and other wastes which could cause pollution:

- (1) the construction, installation, modification or operation of any sewage works or any extension or addition thereto;
- (2) the increase in volume or strength of any wastes in excess of the permissive discharge specified under any existing permit;
- (3) the construction, installation or operation of any industrial or commercial establishments or any extension or modification thereof or addition thereto, the operation of which would cause an increase in the discharge of waste directly into the water, air and/or land resources of the Philippines or would otherwise alter their physical,

chemical or biological properties in any manner not already lawfully authorized."

[7] The Informations charging this offense were docketed as Criminal Case Nos. 96-47, 96-48, and 96-49. Except for the names of the accused and their respective designations at Marcopper, the Informations uniformly alleged (rollo, pp. 63-71):

That on or about March 24, 1996, and for sometime prior and subsequent thereto, in the municipality of Boac, province of Marinduque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, x x x, did then and there willfully, unlawfully and feloniously drain or otherwise dispose/discharge into the Makulapnit River and the entire Boac River system and/or cause, permit, suffer to be drained or allow to seep into such river/waterway, mine tailings or other waste matters discharged due to breach caused on its Tapan drainage pit/tunnel for his failure to institute adequate measures as a managing head thereof, thus causing pollution of such rivers/waterways due to exceedances [sic] in the criterion level for cadmium, copper, and lead, as found by the Pollution Adjudication Board, which rendered such water resources harmful, detrimental or injurious to public health, safety or welfare or which adversely affected their utilization for domestic, agricultural, and/or recreational purposes.

[8] This provision states: "Violation of the Terms and Conditions of the [E]nvironmental Compliance Certificate. — Any person who willfully violates or grossly neglects to abide by the terms and conditions of the environmental compliance certificate issued to said person and which causes environmental damage through pollution shall suffer the penalty of imprisonment of six (6) months to six (6) years or a fine of Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00), or both at the discretion of the court."

[9] The Informations charging this offense were docketed as Criminal Case Nos. 96-50, 96-51, and 96-52. Except for the names of the accused and their respective designations at Marcopper, the Informations uniformly alleged (rollo, pp. 72-80):

That on or about March 24, 1996, and for sometime prior and subsequent thereto, in the municipality of Boac, province of Marinduque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, x x x, did then and there willfully, unlawfully and feloniously drain or otherwise dispose/discharge into the Makulapnit River and the entire Boac River system and/or cause, permit, suffer to be drained or allow to seep into such river system, mine tailings or other waste matters discharged due to breach caused on its Tapan drainage tunnel for his failure to institute adequate measures, thus causing pollution and siltation in the entire Boac River System thus, willfully violating or grossly neglecting to abide by the terms and conditions of the Environmental Compliance Certificate (ECC) issued to [Marcopper Mining C]orporation x x x, particularly that the Marcopper Mining Corporation should ensure the containment of run-off and silt materials from reaching the Magpog and Boac Rivers, resulting to damage and/or destruction of living organisms, like fish and other aquatic life in the vicinity, and to health and property in the same vicinity.

[10] This provision states, in part: "Imprudence and negligence. — Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of arresto mayor in its maximum period to prision correccional in its medium period; if it would have constituted a less grave felony, the penalty of arresto mayor in its minimum and medium periods shall be imposed; if it would have constituted a light felony, the penalty of arresto menor in its maximum period shall be imposed.

x x x x

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 to

three times such value, but which shall in no case be less than twenty-five pesos.

x x x x

Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place."

[11]The Informations under this charge were docketed as Criminal Case Nos. 96-53, 96-54, and 96-55. Except for the names of the accused and their respective designations at Marcopper, the Informations uniformly alleged (rollo, pp. 81-91):

That on or about March 24, 1996, and for sometime prior and subsequent thereto, in the municipality of Boac, province of Marinduque, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, x x x, did then and there negligently, imprudently, unlawfully and feloniously drain or otherwise dispose/discharge into the Makulapnit River or Boac River system and/or cause, permit, suffer to be drained or allow to seep into such river system/waterway, its mine tailings due to breach caused on the Tapan drainage pit/tunnel of the [Marcopper Mining C]orporation so managed and operated by said accused, in a negligent, reckless and imprudent manner, without due regard and in gross violation of the conditions set forth in the Environmental Compliance Certificate issued by the Environmental Management Bureau to the said corporation on April 6, 1996, and the accused, x x x, did not take the necessary or adequate precaution to prevent damage to property thus causing by such carelessness and imprudence said corporation operated by him to discharge mine tailings into the Makulapnit River at the rate of 5 to 10 cubic meters per second then resulting to damage and/or destruction of living organisms, like fish or other aquatic life in the said river system and which also affected agricultural products, the rehabilitation and restoration of which will cost the government the approximate sum of not less than P50,000,000.00.

[12] Presided by Judge Celso De Jesus Zoleta.

[13] Rollo, pp. 120-122.

[14] Penned by Judge Rodolfo B. Dimaano.

[15]Rollo, pp. 202-203.

[16] No. L-45129, 6 March 1987, 148 SCRA 292.

[17]CA rollo, pp. 1-18.

[18]Rollo, pp. 43, 45-46, 48, 50 (internal citations omitted).

[19] Id., pp. 17-18.

[20]Substantially reiterated in Section 13, Rule 110 of the Revised Rules of Criminal Procedure, effective 1 December 2000 ("Revised Rules").

[21] See *Reodica v. CA*, 354 Phil. 90 (1998).

[22] This provisions states: "Grounds. — The accused may move to quash the complaint or information on any of the following grounds:

x x x x

(e) That more than one offense is charged except in those cases in which existing laws prescribe a single

punishment for various offenses[.]" This is substantially reiterated in Section 3(f), Rule 117 of the Revised Rules.

[23] *People v. Ferrer*, 101 Phil. 234 (1957).

[24] See *Nierras v. Dacuycuy*, G.R. Nos. 59568-76, 11 January 1990, 181 SCRA 1; *People v. Doriquez*, 133 Phil. 295 (1968); *People v. Alvarez*, 45 Phil. 472 (1923); *People v. Cabrera*, 43 Phil. 64 (1922); *United States v. Capurro, et al.*, 7 Phil. 24 (1906).

[25] CONSTITUTION, Art. III, Sec. 21.

[26] 133 Phil. 295 (1968).

[27] *Id.* at 305 (internal citations omitted).

[28] Under Section 7, Rule 117, of the 1985 Rules of Criminal Procedure (substantially reiterated in Section 7, Rule 117 of the Revised Rules), the following requisites must obtain for the accused to claim protection against double jeopardy: (1) a valid complaint or Information or other formal charge sufficient in form and substance to sustain a conviction, (2) a competent court; (3) the defendant had pleaded to the charge; (4) the defendant had been convicted, or acquitted, or the case against him dismissed or otherwise terminated without his express consent; (5) the second offense charged is the same as the first, or is an attempt to commit the same or a frustration thereof, or that the second offense necessarily includes or is necessarily included in the offense or information. Only the first three elements are present in this case.

[29] *Rollo*, pp. 203-205.

[30] *Supra* note 16 at 301-302.

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