

MELBA QUINTO, PETITIONER, VS. DANTE ANDRES AND RANDYVER PACHECO, RESPONDENTS.*G.R. NO. 155791. March 16, 2005*

Ponente: CALLEJO, SR., J.

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At around 7:30 a.m. on November 13, 1995, eleven-year-old Edison Garcia, a Grade 4 elementary school pupil, and his playmate, Wilson Quinto, who was also about eleven years old, were at Barangay San Rafael, Tarlac, Tarlac. They saw respondents Dante Andres and Randyver Pacheco by the mouth of a drainage culvert. Andres and Pacheco invited Wilson to go fishing with them inside the drainage culvert.[1] Wilson assented. When Garcia saw that it was dark inside, he opted to remain seated in a grassy area about two meters from the entrance of the drainage system.[2]

Respondent Pacheco had a flashlight. He, along with respondent Andres and Wilson, entered the drainage system which was covered by concrete culvert about a meter high and a meter wide, with water about a foot deep.[3] After a while, respondent Pacheco, who was holding a fish, came out of the drainage system and left[4] without saying a word. Respondent Andres also came out, went back inside, and emerged again, this time, carrying Wilson who was already dead. Respondent Andres laid the boy's lifeless body down in the grassy area.[5] Shocked at the sudden turn of events, Garcia fled from the scene.[6] For his part, respondent Andres went to the house of petitioner Melba Quinto, Wilson's mother, and informed her that her son had died. Melba Quinto rushed to the drainage culvert while respondent Andres followed her.[7]

The cadaver of Wilson was buried without any autopsy thereon having been conducted. The police authorities of Tarlac, Tarlac, did not file any criminal complaint against the respondents for Wilson's death.

Two weeks thereafter, or on November 28, 1995, National Bureau of Investigation (NBI) investigators took the sworn statements of respondent Pacheco, Garcia and petitioner Quinto.[8] Respondent Pacheco alleged that he had never been to the drainage system catching fish with respondent Andres and Wilson. He also declared that he saw Wilson already dead when he passed by the drainage system while riding on his carabao.

On February 29, 1996, the cadaver of Wilson was exhumed. Dr. Dominic Aguda of the NBI performed an autopsy thereon at the cemetery and submitted his autopsy report containing the following postmortem findings:

POSTMORTEM FINDINGS

Body in previously embalmed, early stage of decomposition, attired with white long sleeves and dark pants and placed inside a wooden coffin in a niche-apartment style.

Hematoma, 14.0 x 7.0 cms., scalp, occipital region.

Abrasion, 4.0 x 3.0 cms., right face, 5.0 x 3.0 cms., left forearm.

Laryngo – tracheal lumina – congested and edematous containing muddy particles with bloody path.

Lungs – hyperinflated, heavy and readily pits on pressure; section contains bloody froth.

Brain – autolyzed and liquefied.

Stomach – partly autolyzed.

CAUSE OF DEATH: Asphyxia by drowning; traumatic head injuries, contributory.[9]

The NBI filed a criminal complaint for homicide against respondents Andres and Pacheco in the Office of the Provincial Prosecutor, which found probable cause for homicide by dolo against the two.

An Information was later filed with the Regional Trial Court (RTC) of Tarlac, Tarlac, charging the respondents with homicide. The accusatory portion reads:

That at around 8 o'clock in the morning of November 13, 1995, in the Municipality of Tarlac, Province of Tarlac, Philippines, and within the jurisdiction of this Honorable Court, the said accused Dante Andres and Randyver Pacheco y Suliven @ Randy, conspiring, confederating, and helping one another, did then and there willfully, unlawfully, and feloniously attack, assault, and maul Wilson Quinto inside a culvert where the three were fishing, causing Wilson Quinto to drown and die.

CONTRARY TO LAW.[10]

After presenting Garcia, the prosecution presented Dr. Dominic Aguda, who testified on direct examination that the hematoma at the back of the victim's head and the abrasion on the latter's left forearm could have been caused by a strong force coming from a blunt instrument or object. The injuries in the larynx and trachea also indicated that the victim died of drowning, as some muddy particles were also found on the lumina of the larynx and trachea ("Nakahigop ng putik"). Dr. Aguda stated that such injury could be caused when a person is put under water by pressure or by force.[11] On cross-examination, Dr. Aguda declared that the hematoma on the scalp was caused by a strong pressure or a strong force applied to the scalp coming from a blunt instrument. He also stated that the victim could have fallen, and that the occipital portion of his head could have hit a blunt object.

Dr. Aguda also declared that the 14x7-centimeter hematoma at the back of Wilson's head could have rendered the latter unconscious, and, if he was thrown in a body of water, the boy could have died by drowning.

In answer to clarificatory questions made by the court, the doctor declared that the 4x3-centimeter abrasion on the right side of Wilson's face could have also been caused by rubbing against a concrete wall or pavement, or by contact with a rough surface. He also stated that the trachea region was full of mud, but that there was no sign of strangulation.[12]

After the prosecution had presented its witnesses and the respondents had admitted the pictures showing the drainage system including the inside portions thereof,[13] the prosecution rested its case.

The respondents filed a demurer to evidence which the trial court granted on the ground of insufficiency of evidence, per its Order dated January 28, 1998. It also held that it could not hold the respondents liable for damages because of the absence of preponderant evidence to prove their liability for Wilson's death.

The petitioner appealed the order to the Court of Appeals (CA) insofar as the civil aspect of the case was concerned. In her brief, she averred that –

THE TRIAL COURT ERRED IN DISMISSING THE CASE AND IN RULING THAT NO PREPONDERANT EVIDENCE EXISTS TO HOLD ACCUSED-APPELLEES CIVILLY LIABLE FOR THE DEATH OF THE VICTIM WILSON QUINTO.[14]

The CA rendered judgment affirming the assailed order of the RTC on December 21, 2001. It ruled as follows:

The acquittal in this case is not merely based on reasonable doubt but rather on a finding that the accused-appellees did not commit the criminal acts complained of. Thus, pursuant to the above rule and settled jurisprudence, any civil action ex delicto cannot prosper. Acquittal in a criminal action bars the civil action arising therefrom where the judgment of acquittal holds that the accused did not commit the criminal acts imputed to them. (Tan v. Standard Vacuum Oil Co., 91 Phil. 672)[15]

The petitioner filed the instant petition for review and raised the following issues:

I

WHETHER OR NOT THE EXTINCTION OF RESPONDENTS' CRIMINAL LIABILITY, LIKEWISE, CARRIES WITH IT THE EXTINCTION OF THEIR CIVIL LIABILITY.

II

WHETHER OR NOT PREPONDERANT EVIDENCE EXISTS TO HOLD RESPONDENTS CIVILLY LIABLE FOR THE DEATH OF WILSON QUINTO.[16]

The petitioner avers that the trial court indulged in mere possibilities, surmises and speculations when it held that Wilson died because (a) he could have fallen, his head hitting the stones in the drainage system since the culvert was slippery; or (b) he might have been bitten by a snake which he thought was the prick of a fish fin, causing his head to hit hard on the top of the culvert; or (c) he could have lost consciousness due to some ailment, such as epilepsy. The petitioner also alleges that the trial court erred in ruling that the prosecution failed to prove any ill motive on the part of the respondents to kill the victim, and in considering that respondent Andres even informed her of Wilson's death.

The petitioner posits that the trial court ignored the testimony of the Medico-Legal Expert, Dr. Aguda; the nature, location and number of the injuries sustained by the victim which caused his death; as well as the locus criminis. The petitioner insists that the behavior of the respondents after the commission of the crime betrayed their guilt, considering that respondent Pacheco left the scene, leaving respondent Andres to bring out Wilson's cadaver, while respondent Andres returned inside the drainage system only when he saw Garcia seated in the grassy area waiting for his friend Wilson to come out.

The petitioner contends that there is preponderant evidence on record to show that either or both the respondents caused the death of her son and, as such, are jointly and severally liable therefor.

In their comment on the petition, the respondents aver that since the prosecution failed to adduce any evidence to prove that they committed the crime of homicide and caused the death of Wilson, they are not criminally and civilly liable for the latter's death.

The petition has no merit.

Every person criminally liable for a felony is also civilly liable.[17] The civil liability of such person established in Articles 100, 102 and 103 of the Revised Penal Code includes restitution, reparation of the damage caused, and indemnification for consequential damages.[18] 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.[19] With the implied institution of the civil action in the criminal action, the two actions are merged into one composite proceeding, with the criminal action predominating the civil.[20]

The prime purpose of the criminal action is to punish the offender in order to deter him and others from committing the same or similar offense, to isolate him from society, to reform and rehabilitate him or, in general,

to maintain social order.[21] The sole purpose of the civil action is the restitution, reparation or indemnification of the private offended party for the damage or injury he sustained by reason of the delictual or felonious act of the accused.[22] While the prosecution must prove the guilt of the accused beyond reasonable doubt for the crime charged, it is required to prove the cause of action of the private complainant against the accused for damages and/or restitution.

The extinction of the penal action does not carry with it the extinction of the civil action. However, the civil action based on delict shall be deemed extinguished if there is a finding in a final judgment in the civil action that the act or omission from where the civil liability may arise does not exist.[23]

Moreover, a person committing a felony is criminally liable for all the natural and logical consequences resulting therefrom although the wrongful act done be different from that which he intended.[24] “Natural” refers to an occurrence in the ordinary course of human life or events, while “logical” means that there is a rational connection between the act of the accused and the resulting injury or damage. The felony committed must be the proximate cause of the resulting injury. Proximate cause is that cause which in natural and continuous sequence, unbroken by an efficient intervening cause, produces the injury, and without which the result would not have occurred. The proximate legal cause is that acting first and producing the injury, either immediately, or by setting other events in motion, all constituting a natural and continuous chain of events, each having a close causal connection with its immediate predecessor.[25]

There must be a relation of “cause and effect,” the cause being the felonious act of the offender, the effect being the resultant injuries and/or death of the victim. The “cause and effect” relationship is not altered or changed because of the pre-existing conditions, such as the pathological condition of the victim (las condiciones patologica del lesionado); the predisposition of the offended party (la predisposicion del ofendido); the physical condition of the offended party (la constitucion fisica del herido); or the concomitant or concurrent conditions, such as the negligence or fault of the doctors (la falta de medicos para sister al herido); or the conditions supervening the felonious act such as tetanus, pulmonary infection or gangrene.[26]

The felony committed is not the proximate cause of the resulting injury when:

- (a) there is an active force that intervened between the felony committed and the resulting injury, and the active force is a distinct act or fact absolutely foreign from the felonious act of the accused; or
- (b) the resulting injury is due to the intentional act of the victim.[27]

If a person inflicts a wound with a deadly weapon in such a manner as to put life in jeopardy and death follows as a consequence of their felonious act, it does not alter its nature or diminish its criminality to prove that other causes cooperated in producing the factual result. The offender is criminally liable for the death of the victim if his delictual act caused, accelerated or contributed to the death of the victim.[28] A different doctrine would tend to give immunity to crime and to take away from human life a salutary and essential safeguard.[29] This Court has emphasized that:

... Amid the conflicting theories of medical men, and the uncertainties attendant upon the treatment of bodily ailments and injuries, it would be easy in many cases of homicide to raise a doubt as to the immediate cause of death, and thereby to open a wide door by which persons guilty of the highest crime might escape conviction and punishment. ...[30]

In *People v. Quianzon*,[31] the Supreme Court held:

... The Supreme Court of Spain, in a Decision of April 3, 1879, said in a case similar to the present, the following: Inasmuch as a man is responsible for the consequences of his act – and in this case, the physical

condition and temperament of the offended party nowise lessen the evil, the seriousness whereof is to be judged, not by the violence of the means employed, but by the result actually produced; and as the wound which the appellant inflicted upon the deceased was the cause which determined his death, without his being able to counteract its effects, it is evident that the act in question should be qualified as homicide, etc.[32]

In the present case, the respondents were charged with homicide by dolo. In *People v. Delim*,^[33] the Court delineated the burden of the prosecution to prove the guilt of the accused for homicide or murder:

In the case at bar, the prosecution was burdened to prove the corpus delicti which consists of two things: first, the criminal act and second, defendant's agency in the commission of the act. Wharton says that corpus delicti includes two things: first, the objective; second, the subjective element of crimes. In homicide (by dolo) and in murder cases, the prosecution is burdened to prove: (a) the death of the party alleged to be dead; (b) that the death was produced by the criminal act of some other than the deceased and was not the result of accident, natural cause or suicide; and (c) that defendant committed the criminal act or was in some way criminally responsible for the act which produced the death. To prove the felony of homicide or murder, there must be incontrovertible evidence, direct or circumstantial, that the victim was deliberately killed (with malice); in other words, that there was intent to kill. Such evidence may consist inter alia in the use of weapons by the malefactors, the nature, location and number of wounds sustained by the victim and the words uttered by the malefactors before, at the time or immediately after the killing of the victim. If the victim dies because of a deliberate act of the malefactor, intent to kill is conclusively presumed.^[34]

Insofar as the civil aspect of the case is concerned, the prosecution or the private complainant is burdened to adduce preponderance of evidence or superior weight of evidence. Although the evidence adduced by the plaintiff is stronger than that presented by the defendant, he is not entitled to a judgment if his evidence is not sufficient to sustain his cause of action. The plaintiff must rely on the strength of his own evidence and not upon the weakness of that of the defendants'.^[35]

Section 1, Rule 133 of the Revised Rules of Evidence provides how preponderance of evidence is determined:

Section 1. Preponderance of evidence, how determined. – In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstance of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.^[36]

In the present case, we rule that, as held by the trial court and the CA, the prosecution failed to adduce preponderant evidence to prove the facts on which the civil liability of the respondents rest, i.e., that the petitioner has a cause of action against the respondents for damages.

It bears stressing that the prosecution relied solely on the collective testimonies of Garcia, who was not an eyewitness, and Dr. Aguda.

We agree with the petitioner that, as evidenced by the Necropsy Report of Dr. Dominic Aguda, the deceased sustained a 14x7-centimeter hematoma on the scalp. But as to how the deceased sustained the injury, Dr. Aguda was equivocal. He presented two possibilities: (a) that the deceased could have been hit by a blunt object or instrument applied with full force; or (b) the deceased could have slipped, fell hard and his head hit a hard object:

COURT:

The Court would ask questions.

Q So it is possible that the injury, that is – the hematoma, caused on the back of the head might be due to the victim's falling on his back and his head hitting a pavement?

A Well, the 14x7-centimeter hematoma is quite extensive, so if the fall is strong enough and would fall from a high place and hit a concrete pavement, then it is possible.

Q Is it possible that if the victim slipped on a concrete pavement and the head hit the pavement, the injury might be caused by that slipping?

A It is also possible.

Q So when the victim was submerged under water while unconscious, it is possible that he might have taken in some mud or what?

A Yes, Sir.

Q So it is your finding that the victim was submerged while still breathing?

A Yes, Your Honor, considering that the finding on the lung also would indicate that the victim was still alive when he was placed under water.[37]

The doctor also admitted that the abrasion on the right side of the victim's face could have been caused by rubbing against a concrete wall or pavement:

Q The abrasion 4x3 centimeters on the right [side of the] face, would it be caused by the face rubbing against a concrete wall or pavement?

A Yes, Sir. Abrasion is usually caused by a contact of a skin to a rough surface.

Q Rough surface?

A Yes, Your Honor.

Q When you say that the trachea region was full of mud, were there no signs that the victim was strangled?

A There was no sign of strangulation, Your Honor.[38]

The trial court gave credence to the testimony of Dr. Aguda that the deceased might have slipped, causing the latter to fall hard and hit his head on the pavement, thus:

Q Could it be possible, Doctor, that this injury might have been caused when the victim fell down and that portion of the body or occipital portion hit a blunt object and might have been inflicted as a result of falling down?

A If the fall ... if the victim fell and he hit a hard object, well, it is also possible.[39]

The trial court took into account the following facts:

Again, it could be seen from the pictures presented by the prosecution that there were stones inside the culvert. (See Exhibit "D" to "D-3"). The stones could have caused the victim to slip and hit his head on the pavement. Since there was water on the culvert, the portion soaked with water must be very slippery, aside from the fact that the culvert is round. If the victim hit his head and lost consciousness, he will naturally take in some amount of water and drown.[40]

The CA affirmed on appeal the findings of the trial court, as well as its conclusion based on the said findings.

We agree with the trial and appellate courts. The general rule is that the findings of facts of the trial court, its assessment of probative weight of the evidence of the parties, and its conclusion anchored on such findings, affirmed no less by the CA, are given conclusive effect by this Court, unless the trial court ignored, misapplied or misconstrued cogent facts and circumstances which, if considered, would change the outcome of the case. The petitioner failed to show any justification to warrant a reversal of the findings or conclusions of the trial and appellate courts.

That the deceased fell or slipped cannot be totally foreclosed because even Garcia testified that the drainage culvert was dark, and that he himself was so afraid that he refused to join respondents Andres and Pacheco inside.[41] Respondent Andres had no flashlight; only respondent Pacheco had one.

Moreover, Dr. Aguda failed to testify and explain what might have caused the abrasion on the left forearm of the deceased. He, likewise, failed to testify whether the abrasions on the face and left forearm of the victim were made ante mortem or post mortem.

The petitioner even failed to adduce preponderance of evidence that either or both the respondents hit the deceased with a blunt object or instrument, and, consequently, any blunt object or instrument that might have been used by any or both of the respondents in hitting the deceased.

It is of judicial notice that nowadays persons have killed or committed serious crimes for no reason at all.[42] However, the absence of any ill-motive to kill the deceased is relevant and admissible in evidence to prove that no violence was perpetrated on the person of the deceased. In this case, the petitioner failed to adduce proof of any ill-motive on the part of either respondent to kill the deceased before or after the latter was invited to join them in fishing. Indeed, the petitioner testified that respondent Andres used to go to their house and play with her son before the latter's death:

Q Do you know this Dante Andres personally?

A Not much but he used to go to our house and play with my son after going from her mother who is gambling, Sir.

Q But you are acquainted with him, you know his face?

A Yes, Sir.

Q Will you please look around this courtroom and see if he is around?

A (Witness is pointing to Dante Andres, who is inside the courtroom.)[43]

When the petitioner's son died inside the drainage culvert, it was respondent Andres who brought out the deceased. He then informed the petitioner of her son's death. Even after informing the petitioner of the death of her son, respondent Andres followed the petitioner on her way to the grassy area where the deceased was:

Q Did not Dante Andres follow you?

A He went with me, Sir.

Q So when you went to the place where your son was lying, Dante Andres was with you?

A No, Sir. When I was informed by Dante Andres that my son was there at the culvert, I ran immediately. He [was] just left behind and he just followed, Sir.

Q So when you reached the place where your son was lying down, Dante Andres also came or arrived?

A It was only when we boarded the jeep that he arrived, Sir.[44]

In sum, the petitioner failed to adduce preponderance of evidence to prove a cause of action for damages based on the deliberate acts alleged in the Information.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED for lack of merit. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

- [1] TSN, 2 May 1997, p. 23.
- [2] TSN, 13 January 1997, pp. 6-7.
- [3] Records, pp. 70-73. (Exhibits “D” to “D-3”)
- [4] Id. at 8.
- [5] Id.
- [6] Id.
- [7] TSN, 6 June 1997, p. 18.
- [8] Records, p. 8. (Exhibit “A”)
- [9] Id. at 67.
- [10] Id. at 1.
- [11] TSN, 17 September 1997, pp. 5-7.
- [12] Id. at 12-13.
- [13] Records, pp. 70-73. (Exhibits “D” to “D-3”)
- [14] CA Rollo, p. 75.
- [15] Rollo, p. 59.
- [16] Id. at 15.
- [17] Article 100, Revised Penal Code.
- [18] Article 104, Revised Penal Code.
- [19] Section 1, Rule 111 of the Revised Rules of Criminal Procedure.
- [20] *Ramiscal, Jr. v. Sandiganbayan*, G.R. No. 140576-99, December 13, 2004.
- [21] Ibid.
- [22] Id.
- [23] Section 2, Rule 111 of the Revised Rules of Civil Procedure.
- [24] Article 4, paragraph 1. Revised Penal Code.
- [25] *Vda. de Bataclan, et al. v. Medina*, 102 Phil. 181 (1957).
- [26] Cuello Colon, *Codigo Penal*, 12 ed., 1968, pp. 335-336.
- [27] Cuello Colon, *Doredo Penal*, Vol. 1, p. 278.
- [28] *People v. Cutura*, 4 SCRA 663 (1962).
- [29] *People v. Moldes*, 61 Phil. 1 (1934).
- [30] Id. at 4.
- [31] 62 Phil. 162 (1935).

[32] Id. at 168-169.

[33] 396 SCRA 386 (2003).

[34] Id. at 399-400.

[35] Francisco, Revised Rules of Court of the Philippines, 1997 ed., Vol. VII, Part II, p. 431.

[36] Rollo, p. 51.

[37] TSN, 17 September 1997, pp. 10-11.

[38] Id. at 12-13.

[39] Rollo, p. 43.

[40] Ibid.

[41] TSN, 2 May 1997, p. 17.

[42] *People v. Delim*, *supra*.

[43] TSN, 6 June 1997, p. 8.

[44] Id. at 18.

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