

JASON IVLER Y AGUILAR, PETITIONER, VS. HON. MARIA ROWENA MODESTO- SAN PEDRO, JUDGE OF THE METROPOLITAN TRIAL COURT, BRANCH 71, PASIG CITY, AND EVANGELINE PONCE, RESPONDENTS.

G.R. No. 172716. November 17, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

The petition seeks the review[1] of the Orders[2] of the Regional Trial Court of Pasig City affirming sub-silencio a lower court's ruling finding inapplicable the Double Jeopardy Clause to bar a second prosecution for Reckless Imprudence Resulting in Homicide and Damage to Property. This, despite the accused's previous conviction for Reckless Imprudence Resulting in Slight Physical Injuries arising from the same incident grounding the second prosecution.

The Facts

Following a vehicular collision in August 2004, petitioner Jason Ivler (petitioner) was charged before the Metropolitan Trial Court of Pasig City, Branch 71 (MeTC), with two separate offenses: (1) Reckless Imprudence Resulting in Slight Physical Injuries (Criminal Case No. 82367) for injuries sustained by respondent Evangeline L. Ponce (respondent Ponce); and (2) Reckless Imprudence Resulting in Homicide and Damage to Property (Criminal Case No. 82366) for the death of respondent Ponce's husband Nestor C. Ponce and damage to the spouses Ponce's vehicle. Petitioner posted bail for his temporary release in both cases.

On 7 September 2004, petitioner pleaded guilty to the charge in Criminal Case No. 82367 and was meted out the penalty of public censure. Invoking this conviction, petitioner moved to quash the Information in Criminal Case No. 82366 for placing him in jeopardy of second punishment for the same offense of reckless imprudence.

The MeTC refused quashal, finding no identity of offenses in the two cases.[3]

After unsuccessfully seeking reconsideration, petitioner elevated the matter to the Regional Trial Court of Pasig City, Branch 157 (RTC), in a petition for certiorari (S.C.A. No. 2803). Meanwhile, petitioner sought from the MeTC the suspension of proceedings in Criminal Case No. 82366, including the arraignment on 17 May 2005, invoking S.C.A. No. 2803 as a prejudicial question. Without acting on petitioner's motion, the MeTC proceeded with the arraignment and, because of petitioner's absence, cancelled his bail and ordered his arrest.[4] Seven days later, the MeTC issued a resolution denying petitioner's motion to suspend proceedings and postponing his arraignment until after his arrest.[5] Petitioner sought reconsideration but as of the filing of this petition, the motion remained unresolved.

Relying on the arrest order against petitioner, respondent Ponce sought in the RTC the dismissal of S.C.A. No.

2803 for petitioner's loss of standing to maintain the suit. Petitioner contested the motion.

The Ruling of the Trial Court

In an Order dated 2 February 2006, the RTC dismissed S.C.A. No. 2803, narrowly grounding its ruling on petitioner's forfeiture of standing to maintain S.C.A. No. 2803 arising from the MeTC's order to arrest petitioner for his non-appearance at the arraignment in Criminal Case No. 82366. Thus, without reaching the merits of S.C.A. No. 2803, the RTC effectively affirmed the MeTC. Petitioner sought reconsideration but this proved unavailing.[6]

Hence, this petition.

Petitioner denies absconding. He explains that his petition in S.C.A. No. 2803 constrained him to forego participation in the proceedings in Criminal Case No. 82366. Petitioner distinguishes his case from the line of jurisprudence sanctioning dismissal of appeals for absconding appellants because his appeal before the RTC was a special civil action seeking a pre-trial relief, not a post-trial appeal of a judgment of conviction.[7]

Petitioner laments the RTC's failure to reach the merits of his petition in S.C.A. 2803. Invoking jurisprudence, petitioner argues that his constitutional right not to be placed twice in jeopardy of punishment for the same offense bars his prosecution in Criminal Case No. 82366, having been previously convicted in Criminal Case No. 82367 for the same offense of reckless imprudence charged in Criminal Case No. 82366. Petitioner submits that the multiple consequences of such crime are material only to determine his penalty.

Respondent Ponce finds no reason for the Court to disturb the RTC's decision forfeiting petitioner's standing to maintain his petition in S.C.A. 2803. On the merits, respondent Ponce calls the Court's attention to jurisprudence holding that light offenses (e.g. slight physical injuries) cannot be complexed under Article 48 of the Revised Penal Code with grave or less grave felonies (e.g. homicide). Hence, the prosecution was obliged to separate the charge in Criminal Case No. 82366 for the slight physical injuries from Criminal Case No. 82367 for the homicide and damage to property.

In the Resolution of 6 June 2007, we granted the Office of the Solicitor General's motion not to file a comment to the petition as the public respondent judge is merely a nominal party and private respondent is represented by counsel.

The Issues

Two questions are presented for resolution: (1) whether petitioner forfeited his standing to seek relief in S.C.A. 2803 when the MeTC ordered his arrest following his non-appearance at the arraignment in Criminal Case No. 82366; and (2) if in the negative, whether petitioner's constitutional right under the Double Jeopardy Clause bars further proceedings in Criminal Case No. 82366.

The Ruling of the Court

We hold that (1) petitioner's non-appearance at the arraignment in Criminal Case No. 82366 did not divest him of personality to maintain the petition in S.C.A. 2803; and (2) the protection afforded by the Constitution shielding petitioner from prosecutions placing him in jeopardy of second punishment for the same offense bars further proceedings in Criminal Case No. 82366.

Petitioner's Non-appearance at the Arraignment in
Criminal Case No. 82366 did not Divest him of Standing

to Maintain the Petition in S.C.A. 2803

Dismissals of appeals grounded on the appellant's escape from custody or violation of the terms of his bail bond are governed by the second paragraph of Section 8, Rule 124,[8] in relation to Section 1, Rule 125, of the Revised Rules on Criminal Procedure authorizing this Court or the Court of Appeals to "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." The "appeal" contemplated in Section 8 of Rule 124 is a suit to review judgments of convictions.

The RTC's dismissal of petitioner's special civil action for certiorari to review a pre-arraignment ancillary question on the applicability of the Due Process Clause to bar proceedings in Criminal Case No. 82366 finds no basis under procedural rules and jurisprudence. The RTC's reliance on *People v. Esparas*[9] undercuts the cogency of its ruling because *Esparas* stands for a proposition contrary to the RTC's ruling. There, the Court granted review to an appeal by an accused who was sentenced to death for importing prohibited drugs even though she jumped bail pending trial and was thus tried and convicted in absentia. The Court in *Esparas* treated the mandatory review of death sentences under Republic Act No. 7659 as an exception to Section 8 of Rule 124.[10]

The mischief in the RTC's treatment of petitioner's non-appearance at his arraignment in Criminal Case No. 82366 as proof of his loss of standing becomes more evident when one considers the Rules of Court's treatment of a defendant who absents himself from post-arraignment hearings. Under Section 21, Rule 114[11] of the Revised Rules of Criminal Procedure, the defendant's absence merely renders his bondsman potentially liable on its bond (subject to cancellation should the bondsman fail to produce the accused within 30 days); the defendant retains his standing and, should he fail to surrender, will be tried in absentia and could be convicted or acquitted. Indeed, the 30-day period granted to the bondsman to produce the accused underscores the fact that mere non-appearance does not ipso facto convert the accused's status to that of a fugitive without standing.

Further, the RTC's observation that petitioner provided "no explanation why he failed to attend the scheduled proceeding"[12] at the MeTC is belied by the records. Days before the arraignment, petitioner sought the suspension of the MeTC's proceedings in Criminal Case No. 82366 in light of his petition with the RTC in S.C.A. No. 2803. Following the MeTC's refusal to defer arraignment (the order for which was released days after the MeTC ordered petitioner's arrest), petitioner sought reconsideration. His motion remained unresolved as of the filing of this petition.

Petitioner's Conviction in Criminal Case No. 82367
Bars his Prosecution in Criminal Case No. 82366

The accused's negative constitutional right not to be "twice put in jeopardy of punishment for the same offense"[13] protects him from, among others, post-conviction prosecution for the same offense, with the prior verdict rendered by a court of competent jurisdiction upon a valid information.[14] It is not disputed that petitioner's conviction in Criminal Case No. 82367 was rendered by a court of competent jurisdiction upon a valid charge. Thus, the case turns on the question whether Criminal Case No. 82366 and Criminal Case No. 82367 involve the "same offense." Petitioner adopts the affirmative view, submitting that the two cases concern the same offense of reckless imprudence. The MeTC ruled otherwise, finding that Reckless Imprudence Resulting in Slight Physical Injuries is an entirely separate offense from Reckless Imprudence Resulting in Homicide and Damage to Property "as the [latter] requires proof of an additional fact which the other does not." [15]

We find for petitioner.

Reckless Imprudence is a Single Crime,

its Consequences on Persons and
Property are Material Only to Determine
the Penalty

The two charges against petitioner, arising from the same facts, were prosecuted under the same provision of the Revised Penal Code, as amended, namely, Article 365 defining and penalizing quasi-offenses. The text of the provision reads:

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.

Any person who, by simple imprudence or negligence, shall commit an act which would otherwise constitute a grave felony, shall suffer the penalty of arresto mayor in its medium and maximum periods; if it would have constituted a less serious felony, the penalty of arresto mayor in its minimum period shall be imposed.

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.

A fine not exceeding two hundred pesos and censure shall be imposed upon any person who, by simple imprudence or negligence, shall cause some wrong which, if done maliciously, would have constituted a light felony.

In the imposition of these penalties, the court shall exercise their sound discretion, without regard to the rules prescribed in Article sixty-four.

The provisions contained in this article shall not be applicable:

1. When the penalty provided for the offense is equal to or lower than those provided in the first two paragraphs of this article, in which case the court shall impose the penalty next lower in degree than that which should be imposed in the period which they may deem proper to apply.
2. When, by imprudence or negligence and with violation of the Automobile Law, to death of a person shall be caused, in which case the defendant shall be punished by prision correccional in its medium and maximum periods.

Reckless imprudence consists in voluntary, 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.

Simple imprudence consists in the lack of precaution displayed in those cases in which the damage impending to be caused is not immediate nor the danger clearly manifest.

The penalty next higher in degree to those provided for in this article shall be imposed upon the offender who fails to lend on the spot to the injured parties such help as may be in this hand to give.

Structurally, these nine paragraphs are collapsible into four sub-groupings relating to (1) the penalties attached to the quasi-offenses of "imprudence" and "negligence" (paragraphs 1-2); (2) a modified penalty scheme for either or both quasi-offenses (paragraphs 3-4, 6 and 9); (3) a generic rule for trial courts in imposing penalties (paragraph 5); and (4) the definition of "reckless imprudence" and "simple imprudence" (paragraphs 7-8). Conceptually,

quasi-offenses penalize "the mental attitude or condition behind the act, the dangerous recklessness, lack of care or foresight, the imprudencia punible,"[16] unlike willful offenses which punish the intentional criminal act. These structural and conceptual features of quasi-offenses set them apart from the mass of intentional crimes under the first 13 Titles of Book II of the Revised Penal Code, as amended.

Indeed, the notion that quasi-offenses, whether reckless or simple, are distinct species of crime, separately defined and penalized under the framework of our penal laws, is nothing new. As early as the middle of the last century, we already sought to bring clarity to this field by rejecting in *Quizon v. Justice of the Peace of Pampanga* the proposition that "reckless imprudence is not a crime in itself but simply a way of committing it x x x"[17] on three points of analysis: (1) the object of punishment in quasi-crimes (as opposed to intentional crimes); (2) the legislative intent to treat quasi-crimes as distinct offenses (as opposed to subsuming them under the mitigating circumstance of minimal intent) and; (3) the different penalty structures for quasi-crimes and intentional crimes:

The proposition (inferred from Art. 3 of the Revised Penal Code) that "reckless imprudence" is not a crime in itself but simply a way of committing it and merely determines a lower degree of criminal liability is too broad to deserve unqualified assent. There are crimes that by their structure cannot be committed through imprudence: murder, treason, robbery, malicious mischief, etc. In truth, criminal negligence in our Revised Penal Code is treated as a mere quasi offense, and dealt with separately from willful offenses. It is not a mere question of classification or terminology. In intentional crimes, the act itself is punished; in negligence or imprudence, what is principally penalized is the mental attitude or condition behind the act, the dangerous recklessness, lack of care or foresight, the imprudencia punible. x x x x

Were criminal negligence but a modality in the commission of felonies, operating only to reduce the penalty therefor, then it would be absorbed in the mitigating circumstances of Art. 13, specially the lack of intent to commit so grave a wrong as the one actually committed. Furthermore, the theory would require that the corresponding penalty should be fixed in proportion to the penalty prescribed for each crime when committed willfully. For each penalty for the willful offense, there would then be a corresponding penalty for the negligent variety. But instead, our Revised Penal Code (Art. 365) fixes the penalty for reckless imprudence at *arresto mayor* maximum, to *prision correccional* [medium], if the willful act would constitute a grave felony, notwithstanding that the penalty for the latter could range all the way from *prision mayor* to death, according to the case. It can be seen that the actual penalty for criminal negligence bears no relation to the individual willful crime, but is set in relation to a whole class, or series, of crimes.[18] (Emphasis supplied)

This explains why the technically correct way to allege quasi-crimes is to state that their commission results in damage, either to person or property.[19]

Accordingly, we found the Justice of the Peace in *Quizon* without jurisdiction to hear a case for "Damage to Property through Reckless Imprudence," its jurisdiction being limited to trying charges for Malicious Mischief, an intentional crime conceptually incompatible with the element of imprudence obtaining in quasi-crimes.

Quizon, rooted in Spanish law[20] (the normative ancestry of our present day penal code) and since repeatedly reiterated,[21] stands on solid conceptual foundation. The contrary doctrinal pronouncement in *People v. Faller*[22] that "[r]eckless impudence is not a crime in itself x x x [but] simply a way of committing it x x x,"[23] has long been abandoned when the Court en banc promulgated *Quizon* in 1955 nearly two decades after the Court decided *Faller* in 1939. *Quizon* rejected *Faller*'s conceptualization of quasi-crimes by holding that quasi-crimes under Article 365 are distinct species of crimes and not merely methods of committing crimes. *Faller* found expression in post-*Quizon* jurisprudence[24] only by dint of lingering doctrinal confusion arising from an indiscriminate fusion of criminal law rules defining Article 365 crimes and the complexing of intentional crimes under Article 48 of the Revised Penal Code which, as will be shown shortly, rests on erroneous conception of quasi-crimes. Indeed, the *Quizonian* conception of quasi-crimes undergirded a related branch of jurisprudence

applying the Double Jeopardy Clause to quasi-offenses, barring second prosecutions for a quasi-offense alleging one resulting act after a prior conviction or acquittal of a quasi-offense alleging another resulting act but arising from the same reckless act or omission upon which the second prosecution was based.

Prior Conviction or Acquittal of
Reckless Imprudence Bars
Subsequent Prosecution for the Same
Quasi-Offense

The doctrine that reckless imprudence under Article 365 is a single quasi-offense by itself and not merely a means to commit other crimes such that conviction or acquittal of such quasi-offense bars subsequent prosecution for the same quasi-offense, regardless of its various resulting acts, undergirded this Court's unbroken chain of jurisprudence on double jeopardy as applied to Article 365 starting with *People v. Diaz*,^[25] decided in 1954. There, a full Court, speaking through Mr. Justice Montemayor, ordered the dismissal of a case for "damage to property thru reckless imprudence" because a prior case against the same accused for "reckless driving," arising from the same act upon which the first prosecution was based, had been dismissed earlier. Since then, whenever the same legal question was brought before the Court, that is, whether prior conviction or acquittal of reckless imprudence bars subsequent prosecution for the same quasi-offense, regardless of the consequences alleged for both charges, the Court unfailingly and consistently answered in the affirmative in *People v. Belga*^[26] (promulgated in 1957 by the Court en banc, per Reyes, J.), *Yap v. Lutero*^[27] (promulgated in 1959, unreported, per Concepcion, J.), *People v. Narvas*^[28] (promulgated in 1960 by the Court en banc, per Bengzon J.), *People v. Silva*^[29] (promulgated in 1962 by the Court en banc, per Paredes, J.), *People v. Macabuhay*^[30] (promulgated in 1966 by the Court en banc, per Makalintal, J.), *People v. Buan*^[31] (promulgated in 1968 by the Court en banc, per Reyes, J.B.L., acting C. J.), *Buerano v. Court of Appeals*^[32] (promulgated in 1982 by the Court en banc, per Relova, J.), and *People v. City Court of Manila*^[33] (promulgated in 1983 by the First Division, per Relova, J.). These cases uniformly barred the second prosecutions as constitutionally impermissible under the Double Jeopardy Clause.

The reason for this consistent stance of extending the constitutional protection under the Double Jeopardy Clause to quasi-offenses was best articulated by Mr. Justice J.B.L. Reyes in *Buan*, where, in barring a subsequent prosecution for "serious physical injuries and damage to property thru reckless imprudence" because of the accused's prior acquittal of "slight physical injuries thru reckless imprudence," with both charges grounded on the same act, the Court explained:^[34]

Reason and precedent both coincide in that once convicted or acquitted of a specific act of reckless imprudence, the accused may not be prosecuted again for that same act. For the essence of the quasi offense of criminal negligence under article 365 of the Revised Penal Code lies in the execution of an imprudent or negligent act that, if intentionally done, would be punishable as a felony. The law penalizes thus the negligent or careless act, not the result thereof. The gravity of the consequence is only taken into account to determine the penalty, it does not qualify the substance of the offense. And, as the careless act is single, whether the injurious result should affect one person or several persons, the offense (criminal negligence) remains one and the same, and can not be split into different crimes and prosecutions.^[35] x x x (Emphasis supplied)

Evidently, the *Diaz* line of jurisprudence on double jeopardy merely extended to its logical conclusion the reasoning of *Quizon*.

There is in our jurisprudence only one ruling going against this unbroken line of authority. Preceding *Diaz* by more than a decade, *El Pueblo de Filipinas v. Estipona*,^[36] decided by the pre-war colonial Court in November 1940, allowed the subsequent prosecution of an accused for reckless imprudence resulting in damage to property

despite his previous conviction for multiple physical injuries arising from the same reckless operation of a motor vehicle upon which the second prosecution was based. Estipona's inconsistency with the post-war Diaz chain of jurisprudence suffices to impliedly overrule it. At any rate, all doubts on this matter were laid to rest in 1982 in Buerano.[37] There, we reviewed the Court of Appeals' conviction of an accused for "damage to property for reckless imprudence" despite his prior conviction for "slight and less serious physical injuries thru reckless imprudence," arising from the same act upon which the second charge was based. The Court of Appeals had relied on Estipona. We reversed on the strength of Buan:[38]

Th[e] view of the Court of Appeals was inspired by the ruling of this Court in the pre-war case of *People vs. Estipona* decided on November 14, 1940. However, in the case of *People vs. Buan*, 22 SCRA 1383 (March 29, 1968), this Court, speaking thru Justice J. B. L. Reyes, held that -

Reason and precedent both coincide in that once convicted or acquitted of a specific act of reckless imprudence, the accused may not be prosecuted again for that same act. For the essence of the quasi offense of criminal negligence under Article 365 of the Revised Penal Code lies in the execution of an imprudent or negligent act that, if intentionally done, would be punishable as a felony. The law penalizes thus the negligent or careless act, not the result thereof. The gravity of the consequence is only taken into account to determine the penalty, it does not qualify the substance of the offense. And, as the careless act is single, whether the injurious result should affect one person or several persons, the offense (criminal negligence) remains one and the same, and can not be split into different crimes and prosecutions.

x x x x

. . . the exoneration of this appellant, Jose Buan, by the Justice of the Peace (now Municipal) Court of Guiguinto, Bulacan, of the charge of slight physical injuries through reckless imprudence, prevents his being prosecuted for serious physical injuries through reckless imprudence in the Court of First Instance of the province, where both charges are derived from the consequences of one and the same vehicular accident, because the second accusation places the appellant in second jeopardy for the same offense.[39] (Emphasis supplied)

Thus, for all intents and purposes, Buerano had effectively overruled Estipona.

It is noteworthy that the Solicitor General in Buerano, in a reversal of his earlier stance in *Silva*, joined causes with the accused, a fact which did not escape the Court's attention:

Then Solicitor General, now Justice Felix V. Makasiar, in his MANIFESTATION dated December 12, 1969 (page 82 of the Rollo) admits that the Court of Appeals erred in not sustaining petitioner's plea of double jeopardy and submits that "its affirmatory decision dated January 28, 1969, in Criminal Case No. 05123-CR finding petitioner guilty of damage to property through reckless imprudence should be set aside, without costs." He stressed that "if double jeopardy exists where the reckless act resulted into homicide and physical injuries, then the same consequence must perforce follow where the same reckless act caused merely damage to property-not death-and physical injuries. Verily, the value of a human life lost as a result of a vehicular collision cannot be equated with any amount of damages caused to a motors vehicle arising from the same mishap." [40] (Emphasis supplied)

Hence, we find merit in petitioner's submission that the lower courts erred in refusing to extend in his favor the mantle of protection afforded by the Double Jeopardy Clause. A more fitting jurisprudence could not be tailored to petitioner's case than *People v. Silva*, [41] a Diaz progeny. There, the accused, who was also involved in a vehicular collision, was charged in two separate Informations with "Slight Physical Injuries thru Reckless Imprudence" and "Homicide with Serious Physical Injuries thru Reckless Imprudence." Following his acquittal of the former, the accused sought the quashal of the latter, invoking the Double Jeopardy Clause. The trial court initially denied relief, but, on reconsideration, found merit in the accused's claim and dismissed the second case.

In affirming the trial court, we quoted with approval its analysis of the issue following *Diaz* and its progeny *People v. Belga*:^[42]

On June 26, 1959, the lower court reconsidered its Order of May 2, 1959 and dismissed the case, holding: --

[T]he Court believes that the case falls squarely within the doctrine of double jeopardy enunciated in *People v. Belga*, x x x In the case cited, Ciriaco Belga and Jose Belga were charged in the Justice of the Peace Court of Malilipot, Albay, with the crime of physical injuries through reckless imprudence arising from a collision between the two automobiles driven by them (Crim. Case No. 88). Without the aforesaid complaint having been dismissed or otherwise disposed of, two other criminal complaints were filed in the same justice of the peace court, in connection with the same collision one for damage to property through reckless imprudence (Crim. Case No. 95) signed by the owner of one of the vehicles involved in the collision, and another for multiple physical injuries through reckless imprudence (Crim. Case No. 96) signed by the passengers injured in the accident. Both of these two complaints were filed against Jose Belga only. After trial, both defendants were acquitted of the charge against them in Crim. Case No. 88. Following his acquittal, Jose Belga moved to quash the complaint for multiple physical injuries through reckless imprudence filed against him by the injured passengers, contending that the case was just a duplication of the one filed by the Chief of Police wherein he had just been acquitted. The motion to quash was denied and after trial Jose Belga was convicted, whereupon he appealed to the Court of First Instance of Albay. In the meantime, the case for damage to property through reckless imprudence filed by one of the owners of the vehicles involved in the collision had been remanded to the Court of First Instance of Albay after Jose Belga had waived the second stage of the preliminary investigation. After such remand, the Provincial Fiscal filed in the Court of First Instance two informations against Jose Belga, one for physical injuries through reckless imprudence, and another for damage to property through reckless imprudence. Both cases were dismissed by the Court of First Instance, upon motion of the defendant Jose Belga who alleged double jeopardy in a motion to quash. On appeal by the Prov. Fiscal, the order of dismissal was affirmed by the Supreme Court in the following language: .

The question for determination is whether the acquittal of Jose Belga in the case filed by the chief of police constitutes a bar to his subsequent prosecution for multiple physical injuries and damage to property through reckless imprudence.

In the case of *People v. F. Diaz*, G. R. No. L-6518, prom. March 30, 1954, the accused was charged in the municipal court of Pasay City with reckless driving under sec. 52 of the Revised Motor Vehicle Law, for having driven an automobile in a '½fast and reckless manner ... thereby causing an accident.' After the accused had pleaded not guilty the case was dismissed in that court 'for failure of the Government to prosecute'. But some time thereafter the city attorney filed an information in the Court of First Instance of Rizal, charging the same accused with damage to property thru reckless imprudence. The amount of the damage was alleged to be P249.50. Pleading double jeopardy, the accused filed a motion, and on appeal by the Government we affirmed the ruling. Among other things we there said through Mr. Justice Montemayor --

The next question to determine is the relation between the first offense of violation of the Motor Vehicle Law prosecuted before the Pasay City Municipal Court and the offense of damage to property thru reckless imprudence charged in the Rizal Court of First Instance. One of the tests of double jeopardy is whether or not the second offense charged necessarily includes or is necessarily included in the offense charged in the former complaint or information (Rule 113, Sec. 9). Another test is whether the evidence which proves one would prove the other that is to say whether the facts alleged in the first charge if proven, would have been sufficient to support the second charge and vice versa; or whether one crime is an ingredient of the other. x x x

x x x x

The foregoing language of the Supreme Court also disposes of the contention of the prosecuting attorney that the charge for slight physical injuries through reckless imprudence could not have been joined with the charge for

homicide with serious physical injuries through reckless imprudence in this case, in view of the provisions of Art. 48 of the Revised Penal Code, as amended. The prosecution's contention might be true. But neither was the prosecution obliged to first prosecute the accused for slight physical injuries through reckless imprudence before pressing the more serious charge of homicide with serious physical injuries through reckless imprudence. Having first prosecuted the defendant for the lesser offense in the Justice of the Peace Court of Meycauayan, Bulacan, which acquitted the defendant, the prosecuting attorney is not now in a position to press in this case the more serious charge of homicide with serious physical injuries through reckless imprudence which arose out of the same alleged reckless imprudence of which the defendant have been previously cleared by the inferior court.[43]

Significantly, the Solicitor General had urged us in *Silva* to reexamine *Belga* (and hence, *Diaz*) "for the purpose of delimiting or clarifying its application." [44] We declined the invitation, thus:

The State in its appeal claims that the lower court erred in dismissing the case, on the ground of double jeopardy, upon the basis of the acquittal of the accused in the JP court for Slight Physical Injuries, thru Reckless Imprudence. In the same breath said State, thru the Solicitor General, admits that the facts of the case at bar, fall squarely on the ruling of the *Belga* case x x x, upon which the order of dismissal of the lower court was anchored. The Solicitor General, however, urges a re-examination of said ruling, upon certain considerations for the purpose of delimiting or clarifying its application. We find, nevertheless, that further elucidation or disquisition on the ruling in the *Belga* case, the facts of which are analogous or similar to those in the present case, will yield no practical advantage to the government. On one hand, there is nothing which would warrant a delimitation or clarification of the applicability of the *Belga* case. It was clear. On the other, this Court has reiterated the views expressed in the *Belga* case, in the identical case of *Yap v. Hon. Lutero, etc.*, L-12669, April 30, 1959.[45] (Emphasis supplied)

Article 48 Does not Apply to Acts Penalized

Under Article 365 of the Revised Penal Code

The confusion bedeviling the question posed in this petition, to which the MeTC succumbed, stems from persistent but awkward attempts to harmonize conceptually incompatible substantive and procedural rules in criminal law, namely, Article 365 defining and penalizing quasi-offenses and Article 48 on complexing of crimes, both under the Revised Penal Code. Article 48 is a procedural device allowing single prosecution of multiple felonies falling under either of two categories: (1) when a single act constitutes two or more grave or less grave felonies (thus excluding from its operation light felonies[46]); and (2) when an offense is a necessary means for committing the other. The legislature crafted this procedural tool to benefit the accused who, in lieu of serving multiple penalties, will only serve the maximum of the penalty for the most serious crime.

In contrast, Article 365 is a substantive rule penalizing not an act defined as a felony but "the mental attitude x x x behind the act, the dangerous recklessness, lack of care or foresight x x x,"[47] a single mental attitude regardless of the resulting consequences. Thus, Article 365 was crafted as one quasi-crime resulting in one or more consequences.

Ordinarily, these two provisions will operate smoothly. Article 48 works to combine in a single prosecution multiple intentional crimes falling under Titles 1-13, Book II of the Revised Penal Code, when proper; Article 365 governs the prosecution of imprudent acts and their consequences. However, the complexities of human interaction can produce a hybrid quasi-offense not falling under either models - that of a single criminal negligence resulting in multiple non-crime damages to persons and property with varying penalties corresponding to light, less grave or grave offenses. The ensuing prosecutorial dilemma is obvious: how should such a quasi-crime be prosecuted? Should Article 48's framework apply to "complex" the single quasi-offense with its multiple (non-criminal) consequences (excluding those amounting to light offenses which will be tried

separately)? Or should the prosecution proceed under a single charge, collectively alleging all the consequences of the single quasi-crime, to be penalized separately following the scheme of penalties under Article 365?

Jurisprudence adopts both approaches. Thus, one line of rulings (none of which involved the issue of double jeopardy) applied Article 48 by "complexing" one quasi-crime with its multiple consequences^[48] unless one consequence amounts to a light felony, in which case charges were split by grouping, on the one hand, resulting acts amounting to grave or less grave felonies and filing the charge with the second level courts and, on the other hand, resulting acts amounting to light felonies and filing the charge with the first level courts.^[49] Expectedly, this is the approach the MeTC impliedly sanctioned (and respondent Ponce invokes), even though under Republic Act No. 7691,^[50] the MeTC has now exclusive original jurisdiction to impose the most serious penalty under Article 365 which is prision correccional in its medium period.

Under this approach, the issue of double jeopardy will not arise if the "complexing" of acts penalized under Article 365 involves only resulting acts penalized as grave or less grave felonies because there will be a single prosecution of all the resulting acts. The issue of double jeopardy arises if one of the resulting acts is penalized as a light offense and the other acts are penalized as grave or less grave offenses, in which case Article 48 is not deemed to apply and the act penalized as a light offense is tried separately from the resulting acts penalized as grave or less grave offenses.

The second jurisprudential path nixes Article 48 and sanctions a single prosecution of all the effects of the quasi-crime collectively alleged in one charge, regardless of their number or severity,^[51] penalizing each consequence separately. Thus, in *Angeles v. Jose*,^[52] we interpreted paragraph three of Article 365, in relation to a charge alleging "reckless imprudence resulting in damage to property and less serious physical injuries," as follows:

[T]he third paragraph of said article, x x x reads as follows:

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 damage to three times such value, but which shall in no case be less than 25 pesos.

The above-quoted provision simply means that if there is only damage to property the amount fixed therein shall be imposed, but if there are also physical injuries there should be an additional penalty for the latter. The information cannot be split into two; one for the physical injuries, and another for the damage to property, x x x.^[53] (Emphasis supplied)

By "additional penalty," the Court meant, logically, the penalty scheme under Article 365.

Evidently, these approaches, while parallel, are irreconcilable. Coherence in this field demands choosing one framework over the other. Either (1) we allow the "complexing" of a single quasi-crime by breaking its resulting acts into separate offenses (except for light felonies), thus re-conceptualize a quasi-crime, abandon its present framing under Article 365, discard its conception under the *Quizon* and *Diaz* lines of cases, and treat the multiple consequences of a quasi-crime as separate intentional felonies defined under Titles 1-13, Book II under the penal code; or (2) we forbid the application of Article 48 in the prosecution and sentencing of quasi-crimes, require single prosecution of all the resulting acts regardless of their number and severity, separately penalize each as provided in Article 365, and thus maintain the distinct concept of quasi-crimes as crafted under Article 365, articulated in *Quizon* and applied to double jeopardy adjudication in the *Diaz* line of cases.

A becoming regard of this Court's place in our scheme of government denying it the power to make laws constrains us to keep inviolate the conceptual distinction between quasi-crimes and intentional felonies under our

penal code. Article 48 is incongruent to the notion of quasi-crimes under Article 365. It is conceptually impossible for a quasi-offense to stand for (1) a single act constituting two or more grave or less grave felonies; or (2) an offense which is a necessary means for committing another. This is why, way back in 1968 in *Buan*, we rejected the Solicitor General's argument that double jeopardy does not bar a second prosecution for slight physical injuries through reckless imprudence allegedly because the charge for that offense could not be joined with the other charge for serious physical injuries through reckless imprudence following Article 48 of the Revised Penal Code:

The Solicitor General stresses in his brief that the charge for slight physical injuries through reckless imprudence could not be joined with the accusation for serious physical injuries through reckless imprudence, because Article 48 of the Revised Penal Code allows only the complexing of grave or less grave felonies. This same argument was considered and rejected by this Court in the case of *People vs. [Silva]* x x x:

[T]he prosecution's contention might be true. But neither was the prosecution obliged to first prosecute the accused for slight physical injuries through reckless imprudence before pressing the more serious charge of homicide with serious physical injuries through reckless imprudence. Having first prosecuted the defendant for the lesser offense in the Justice of the Peace Court of Meycauayan, Bulacan, which acquitted the defendant, the prosecuting attorney is not now in a position to press in this case the more serious charge of homicide with serious physical injuries through reckless imprudence which arose out of the same alleged reckless imprudence of which the defendant has been previously cleared by the inferior court.

[W]e must perforce rule that the exoneration of this appellant x x x by the Justice of the Peace x x x of the charge of slight physical injuries through reckless imprudence, prevents his being prosecuted for serious physical injuries through reckless imprudence in the Court of First Instance of the province, where both charges are derived from the consequences of one and the same vehicular accident, because the second accusation places the appellant in second jeopardy for the same offense.[54] (Emphasis supplied)

Indeed, this is a constitutionally compelled choice. By prohibiting the splitting of charges under Article 365, irrespective of the number and severity of the resulting acts, rampant occasions of constitutionally impermissible second prosecutions are avoided, not to mention that scarce state resources are conserved and diverted to proper use.

Hence, we hold that prosecutions under Article 365 should proceed from a single charge regardless of the number or severity of the consequences. In imposing penalties, the judge will do no more than apply the penalties under Article 365 for each consequence alleged and proven. In short, there shall be no splitting of charges under Article 365, and only one information shall be filed in the same first level court.[55]

Our ruling today secures for the accused facing an Article 365 charge a stronger and simpler protection of their constitutional right under the Double Jeopardy Clause. True, they are thereby denied the beneficial effect of the favorable sentencing formula under Article 48, but any disadvantage thus caused is more than compensated by the certainty of non-prosecution for quasi-crime effects qualifying as "light offenses" (or, as here, for the more serious consequence prosecuted belatedly). If it is so minded, Congress can re-craft Article 365 by extending to quasi-crimes the sentencing formula of Article 48 so that only the most severe penalty shall be imposed under a single prosecution of all resulting acts, whether penalized as grave, less grave or light offenses. This will still keep intact the distinct concept of quasi-offenses. Meanwhile, the lenient schedule of penalties under Article 365, befitting crimes occupying a lower rung of culpability, should cushion the effect of this ruling.

WHEREFORE, we GRANT the petition. We REVERSE the Orders dated 2 February 2006 and 2 May 2006 of the Regional Trial Court of Pasig City, Branch 157. We DISMISS the Information in Criminal Case No. 82366 against petitioner Jason Ivler y Aguilar pending with the Metropolitan Trial Court of Pasig City, Branch 71 on the

ground of double jeopardy.

Let a copy of this ruling be served on the President of the Senate and the Speaker of the House of Representatives.

SO ORDERED.

Carpio Morales, [*]Peralta, Abad, and Mendoza, JJ., concur.

[*] Designated additional member per Raffle dated 22 September 2010.

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

[2] Dated 2 February 2006 and 2 May 2006.

[3] In a Resolution dated 4 October 2004.

[4] In an Order dated 17 May 2005 (Records, p. 142).

[5] In a Resolution dated 24 May 2005.

[6] Denied in an Order dated 2 May 2006.

[7] Rollo, pp. 30-33.

[8] The provision states: "Dismissal of appeal for abandonment or failure to prosecute. - x x x x

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."

[9] 329 Phil. 339 (1996).

[10] Id. at 350.

[11] The provision states: "Forfeiture of bail. - When the presence of the accused is required by the court or these Rules, his bondsmen shall be notified to produce him before the court on a given date and time. If the accused fails to appear in person as required, his bail shall be declared forfeited and the bondsmen given thirty (30) days within which to produce their principal and to show why no judgment should be rendered against them for the amount of their bail. Within the said period, the bondsmen must:

(a) produce the body of their principal or give the reason for his non-production; and

(b) explain why the accused did not appear before the court when first required to do so.

Failing in these two requisites, a judgment shall be rendered against the bondsmen, jointly and severally, for the amount of the bail. The court shall not reduce or otherwise mitigate the liability of the bondsmen, unless the accused has been surrendered or is acquitted."

[12] Rollo, p. 40.

[13] Section 21, Article III, 1987 Constitution.

[14] Section 7, Rule 117 Revised Rules of Criminal Procedure. The right has, of course, broader scope to cover not only prior guilty pleas but also acquittals and unconsented dismissals to bar prosecutions for the same, lesser or graver offenses covered in the initial proceedings (id.)

[15] Rollo, p. 97.

[16] Quizon v. Justice of the Peace of Pampanga, 97 Phil. 342, 345 (1955) (emphasis in the original).

[17] Id.

[18] Id. at 345-346.

[19] We observed in Quizon: "Much of the confusion has arisen from the common use of such descriptive phrases as 'homicide through reckless imprudence,' and the like; when the strict technical offense is, more accurately, 'reckless imprudence resulting in homicide'; or 'simple imprudence causing damages to property.'" (Id. at 345; emphasis supplied)

[20] In *People v. Buan*, 131 Phil. 498, 500-502 (1968), which applied Quizon's logic, the Court canvassed relevant jurisprudence, local and Spanish:

[T]he quasi-offense of criminal negligence under article 365 of the Revised Penal Code lies in the execution of an imprudent or negligent act that, if intentionally done, would be punishable as a felony. The law penalizes thus the negligent or careless act, not the result thereof. The gravity of the consequence is only taken into account to determine the penalty, it does not qualify the substance of the offense. And, as the careless act is single, whether the injurious result should affect one person or several persons, the offense (criminal negligence) remains one and the same, and cannot be split into different crimes and prosecutions. This has been the constant ruling of the Spanish Supreme Court, and is also that of this Court in its most recent decisions on the matter.

Thus, in *People vs. Silva*, L-15974, January 30, 1962, where as a result of the same vehicular accident one man died, two persons were seriously injured while another three suffered only slight physical injuries, we ruled that the acquittal on a charge of slight physical injuries through reckless imprudence, was a bar to another prosecution for homicide through reckless imprudence. In *People vs. Diaz*, L-6518, March 30, 1954, the ruling was that the dismissal by the Municipal Court of a charge of reckless driving barred a second information of damage to property through reckless imprudence based on the same negligent act of the accused. In *People vs. Belga*, 100 Phil. 996, dismissal of an information for physical injuries through needless imprudence as a result of a collision between two automobiles was declared, to block two other prosecutions, one for damage to property through reckless imprudence and another for multiple physical injuries arising from the same collision. The same doctrine was reasserted in *Yap vs. Lutero, et al.*, L-12669, April 30, 1959. In none of the cases cited did the Supreme Court regard as material that the various offenses charged for the same occurrence were triable in Courts of differing category, or that the complainants were not the individuals.

As for the Spanish jurisprudence, Cuello Calon, in his *Derecho Penal* (12th Ed.), Vol. I, p. 439, has this to say: Aun cuando de un solo hecho imprudente se originen males diversos, como el hecho culposo es uno solo, existe un solo delito de imprudencia. Esta es jurisprudencia constante del Tribunal Supremo. De acuerdo con esta doctrina el automovilista imprudente que atropella y causa lesiones a dos personas y ademas daños, no respondera de dos delitos de lesiones y uno de daños por imprudencia, sino de un solo delito culposo.

The said author cites in support of the text the following decisions of the Supreme Court of Spain (footnotes 2 and 3).

x x x x

Si con el hecho imprudente se causa la muerte de una persona y ademas se ocasionan daños, existe un solo hecho punible, pues uno solo fue el acto, aun cuando deben apreciarse dos en orden a la responsabilidad civil, 14 diciembre 1931 si a consecuencia de un solo acto imprudente se produjeron tres delitos, dos de homicidio y uno de daños, como todos son consecuencia de un solo acto culposo, no cabe penarlos por separado, 2 abril 1932. (Emphasis supplied)

[21] E.g. *Samson v. Court of Appeals*, 103 Phil. 277 (1958); *People v. Cano*, 123 Phil. 1086 (1966); *Pabulario v. Palarca*, 129 Phil. 1 (1967); *Corpus v. Paje*, 139 Phil. 429 (1969).

[22] 67 Phil. 529 (1939) (affirming a conviction for malicious mischief upon a charge for "damage [to property] through reckless imprudence"). A logical consequence of a Fallerian conceptualization of quasi-crimes is the sanctioning of the split prosecution of the consequences of a single quasi offense such as those allowed in *El Pueblo de Filipinas v. Estipona*, 70 Phil. 513 (1940) (finding the separate prosecutions of damage to property and multiple physical injuries arising from the same recklessness in the accused's operation of a motor vehicle not violative of the Double Jeopardy Clause).

[23] 67 Phil. 529 (1939).

[24] E.g. *Lontok v. Gorgonio*, 178 Phil. 525, 528 (1979) (holding that the "less grave offense" of "damage to property through reckless imprudence" (for P2,340) cannot be complexed under Article 48 of the penal code with a prescribed "slight offense" of "lesiones leves through reckless imprudence," citing Faller); *Arcaya v. Teleron*, 156 Phil. 354, 362 (1974) (noting, by way of dicta in a ruling denying relief to an appeal against the splitting of two charges for "less serious physical injuries and damage to property amounting to P10,000 through reckless imprudence" and "slight physical injuries through reckless imprudence," that the Quizon doctrine, as cited in *Corpus v. Paje*, 139 Phil. 429 (1969) and *People v. Buan*, 131 Phil. 498 (1968), "may not yet be settled in view of the contrary dictum" in Faller).

[25] 94 Phil. 715 (1954).

[26] 100 Phil. 996 (1957) (barring subsequent prosecutions for physical injuries thru reckless imprudence and damage to property thru reckless imprudence following an acquittal for "reckless imprudence with physical injury").

[27] 105 Phil. 1307 (1959) (Unrep.) (barring subsequent prosecution for "serious physical injuries" following an acquittal for "reckless driving").

[28] 107 Phil. 737 (1960) (barring subsequent prosecution for "damage to property thru reckless imprudence" following a conviction for "multiple slight and serious physical injuries thru reckless imprudence.")

[29] No. L-15974, 30 January 1962, 4 SCRA 95 (barring subsequent prosecution for "homicide thru reckless imprudence" following an acquittal for "slight physical injuries thru reckless imprudence").

[30] 123 Phil. 48 (1966) (barring subsequent prosecution for "damage to property thru reckless imprudence" following an acquittal for two counts of "slight physical injuries thru reckless imprudence.")

[31] 131 Phil. 498 (1968) (barring subsequent prosecution for "serious physical injuries and damage to property thru reckless imprudence" following an acquittal for "slight physical injuries thru reckless imprudence").

[32] 200 Phil. 486 (1982) (reversing a subsequent conviction for "damage to property thru reckless imprudence" following a conviction for "slight and serious physical injuries thru reckless imprudence").

[33] 206 Phil. 555 (1983) (barring subsequent prosecution for "homicide thru reckless imprudence" following a conviction for "serious physical injuries thru reckless imprudence").

[34] 131 Phil. 498, 500 (1968).

[35] *Id.*

[36] 70 Phil. 513 (1940), also cited in other sources as *People v. Estipona*.

[37] Supra note 32.

[38] Supra note 31.

[39] Buerano v. Court of Appeals, 200 Phil. 486, 491 (1982).

[40] Id. at 491-492.

[41] No. L-15974, 30 January 1962, 4 SCRA 95.

[42] Supra note 26.

[43] No. L-15974, 30 January 1962, 4 SCRA 95, 97-100 (internal citations omitted).

[44] Id. at 100.

[45] Id.

[46] Defined under Article 9, paragraph 3 of the Revised Penal Code, as amended, thus: "Light felonies are those infractions of law for the commission of which a penalty of arresto menor or a fine not exceeding 200 pesos or both is provided."

[47] Quizon v. Justice of the Peace of Pampanga, 97 Phil. 342, 345 (1955).

[48] E.g. People v. Lara, 75 Phil. 786 (1946) (involving "homicidio por imprudencia temeraria" with several victims [or, roughly, "multiple homicide thru reckless imprudence"]); People v. Agito, 103 Phil. 526 (1958) (involving "triple homicide and serious physical injuries through reckless imprudence").

[49] E.g. People v. Turla, 50 Phil. 1001 (1927) (sustaining a dismissal on demurrer of a criminal case for the prosecutor's failure to amend a charge for "damage to property and of lesions leves [slight physical injuries] through negligence and imprudence" to remove the charge for the slight offense, under Article 89 of the penal code, the precursor of Article 48); Arcaya v. Teleron, 156 Phil. 354 (1974) (finding no grave abuse of discretion in the filing of separate charges for "less serious physical injuries and damage to property amounting to P10,000 though reckless imprudence" and "slight physical injuries though reckless imprudence" arising from the same facts); Lontok v. Gorgonio, 178 Phil. 525 (1979) (granting a petition to split a single charge for "reckless imprudence resulting in damage to property and multiple [slight] physical injuries" by limiting the petitioner's trial to "reckless imprudence resulting in damage to property"). See also Reodica v. Court of Appeals, 354 Phil. 90 (1998) (holding that the "less grave felony of reckless imprudence resulting in damage to property" (for P8,542) cannot be complexed under Article 48 of the Revised Penal Code with "the light felony of reckless imprudence resulting in physical injuries," citing Lontok); People v. De Los Santos, 407 Phil. 724 (2001) (applying Article 48 of the penal code to hold the accused liable for the "complex crime of reckless imprudence resulting in multiple homicide with serious physical injuries and less serious physical injuries" (upon an information charging "multiple murder, multiple frustrated murder and multiple attempted murder.") In a dicta, the decision stated that separate informations should have been filed for the slight physical injuries the victims sustained which cannot be complexed with the more serious crimes under Article 48.)

[50] Section 2 of RA 7691 provides: "Section 2. Section 32 of [Batas Pambansa Blg. 129] is hereby amended to read as follows:

Sec. 32. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Criminal Cases. -- Except in cases falling within the exclusive original jurisdiction of Regional Trial Courts and of the Sandiganbayan, the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

x x x x

(2) Exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine, and regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof." (Underlining supplied)

[51] E.g. *Angeles v. Jose*, 96 Phil. 151 (1954) (reversing the ruling of the then Court of First Instance of Manila which dismissed for lack of jurisdiction a complaint for "damage to property in the sum of P654.22, and with less serious physical injuries through reckless negligence," holding improper the splitting of the charge). We relied on *Angeles* for our ruling in *People v. Villanueva*, 111 Phil. 897 (1962) resolving similar jurisdictional issue and *People v. Cano*, 123 Phil. 1086, 1090 (1966) (reversing a dismissal order which found the complexing of "damage to property with multiple [slight] physical injuries through reckless imprudence" improper, holding that the Information did not and could not have complexed the effect of a single quasi-offense per *Quizon*. The Court noted that "it is merely alleged in the information that, thru reckless negligence of the defendant, the bus driven by him hit another bus causing upon some of its passengers serious physical injuries, upon others less serious physical injuries and upon still others slight physical injuries, in addition to damage to property").

[52] *Angeles v. Jose*, 96 Phil. 151, 152 (1954).

[53] Thus, we were careful to label the crime in question as "what may be called a complex crime of physical injuries and damage to property" (id., emphasis supplied), because our prescription to impose "additional penalty" for the second consequence of less serious physical injuries, defies the sentencing formula under Article 48 requiring imposition of "the penalty for the most serious crime x x x the same to be applied in its maximum period."

[54] *Supra* note 31 at 502 (internal citation omitted). This also explains why in *People v. Cano* we described as "not altogether accurate" a trial court and a litigant's assumption that a charge for "damage to property with multiple [slight] physical injuries through reckless imprudence" involved two crimes corresponding to the two effects of the single quasi-crime albeit complexed as a single charge:

[A]ppellee and the lower court have seemingly assumed that said information thereby charges two offenses, namely (1) slight physical injuries thru reckless imprudence; and (2) damage to property, and serious and less serious physical injuries, thru reckless negligence -- which are sought to be complexed. This assumption is, in turn, apparently premised upon the predicate that the effect or consequence of defendants negligence, not the negligence itself, is the principal or vital factor in said offenses. Such predicate is not altogether accurate.

As early as July 28, 1955 this Court, speaking thru Mr. Justice J.B.L. Reyes, had the occasion to state, in *Quizon vs. Justice of the Peace of Bacolor, Pampanga* x x x, that:

The proposition (inferred from Art. 3 of the Revised Penal Code) that "reckless imprudence is not a crime in itself but simply a way of committing it and merely determines a lower degree of criminal liability" is too broad to deserve unqualified assent. There are crimes that by their structure can not be committed through imprudence: murder, treason, robbery, malicious mischief, etc. In truth, criminal negligence in our Revised Penal Code is treated as a mere quasi-offense, and dealt separately from willful offenses. It is not a mere question of classification or terminology. In intentional crimes, the act itself is punished; in negligence or imprudence, what is principally penalized is the mental attitude or condition behind the act, the dangerous recklessness, lack of care or foresight, the "imprudencia punible." Much of the confusion has arisen from the common use of such descriptive phrases as "homicide through reckless imprudence", and the like; when the strict technical offense is more accurately, "reckless imprudence resulting in homicide", or "simple imprudence

causing damages to property." (People v. Cano, 123 Phil. 1086,1090 (1966), (Emphasis supplied), reiterated in Pabulario v. Palarca, 129 Phil. 1 (1967) (reversing a lower court which quashed a charge alleging reckless imprudence resulting in damage to property and multiple slight physical injuries).

[55] See Section 32(2), Batas Pambansa Blg. 129, as amended by Republic Act No. 7691.

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