

JEFFREY RESO DAYAP, PETITIONER, VS. PRETZY-LOU SENDIONG, GENESA SENDIONG, ELVIE SY AND DEXIE DURAN, RESPONDENTS.

G.R. No. 177960. January 29, 2009

Ponente: TINGA, J.

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TINGA, J.:

Before us is a petition for review[1] on certiorari of the Decision[2] dated 17 August 2006 and Resolution[3] dated 25 April 2007 by the Court of Appeals in CA-G.R. SP No. 01179 entitled, Pretzy-Lou P. Sendiong, Genesa R. Sendiong, Elvie H. Sy and Dexie Duran v. Hon. Judge Cresencio Tan and Jeffrey Reso Dayap.

The case had its origins in the filing of an Information[4] on 29 December 2004 by the Provincial Prosecutor's Office, Sibulan, Negros Oriental, charging herein petitioner Jeffrey Reso Dayap with the crime of Reckless Imprudence resulting to Homicide, Less Serious Physical Injuries, and Damage to Property. The pertinent portion of the information reads:

That at about 11:55 o'clock in the evening of 28 December 2004 at Brgy. Maslog, Sibulan, Negros Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously drive in a reckless and imprudent manner a 10-wheeler cargo truck with plate number ULP-955, color blue, fully loaded with sacks of coconut shell, registered in the name of Ruben Villabeto of Sta. Agueda Pamplona, Negros Oriental, thereby hitting an automobile, a Colt Galant with plate number NLD-379 driven by Lou Gene R. Sendiong who was with two female passengers, namely: Dexie Duran and Elvie Sy, thus causing the instantaneous death of said Lou Gene R. Sendiong, less serious physical injuries on the bodies of Dexie Duran and Elvie Sy and extensive damage to the above-mentioned Colt Galant which is registered in the name of Cristina P. Weyer of 115 Dr. V. Locsin St., Dumaguete City, to the damage of the heirs of the same Lou Gene R. Sendiong and the other two offended parties above-mentioned.

An act defined and penalized by Article 365 of the Revised Penal Code.

On 10 January 2005, before the Municipal Trial Court (MTC) of Sibulan, Negros Oriental, petitioner was arraigned and he pleaded not guilty to the charge.[5]

On 17 January 2005, respondents Pretzy-Lou P. Sendiong, Genesa Sendiong and Dexie Duran filed a motion for leave of court to file an amended information.[6] They sought to add the allegation of abandonment of the victims by petitioner, thus: "The driver of the 10-wheeler cargo truck abandoned the victims, at a time when said [Lou-Gene] R. Sendiong was still alive inside the car; he was only extracted from the car by the by-standers."[7]

On 21 January 2005, however, the Provincial Prosecutor filed an Omnibus Motion praying that the motion to amend the information be considered withdrawn.[8] On 21 January 2003, the MTC granted the withdrawal and the motion to amend was considered withdrawn.[9]

Pre-trial and trial of the case proceeded. Respondents testified for the prosecution. After the prosecution had rested its case, petitioner sought leave to file a demurrer to evidence which was granted. Petitioner filed his Demurrer to Evidence[10] dated 15 April 2005 grounded on the prosecution's failure to prove beyond reasonable

doubt that he is criminally liable for reckless imprudence, to which respondents filed a Comment[11] dated 25 April 2005.

In the Order[12] dated 16 May 2005, the MTC granted the demurrer and acquitted petitioner of the crime of reckless imprudence. The MTC found that the evidence presented by respondents failed to establish the allegations in the Information. Pertinent portions of the order state:

An examination of the allegations in the information and comparing the same with the evidence presented by the prosecution would reveal that the evidence presented has not established said allegations. The facts and circumstances constituting the allegations charged have not been proven. It is elementary in the rules of evidence that a party must prove his own affirmative allegations.

x x x x

Nowhere in the evidence of the prosecution can this Court find that it was the accused who committed the crime as charged. Its witnesses have never identified the accused as the one who has committed the crime. The prosecution never bothered to establish if indeed it was the accused who committed the crime or asked questions which would have proved the elements of the crime. The prosecution did not even establish if indeed it was the accused who was driving the truck at the time of the incident. The Court simply cannot find any evidence which would prove that a crime has been committed and that the accused is the person responsible for it. There was no evidence on the allegation of the death of Lou Gene R. Sendiong as there was no death certificate that was offered in evidence. The alleged less serious physical injuries on the bodies of Dexie Duran and Elvie Sy were not also proven as no medical certificate was presented to state the same nor was a doctor presented to establish such injuries. The alleged damage to the [C]olt [G]alant was also not established in any manner as no witness ever testified on this aspect and no documentary evidence was also presented to state the damage. The prosecution therefore failed to establish if indeed it was the accused who was responsible for the death of Lou Gene R. Sendiong and the injuries to Dexie Duran and Elvie Sy, including the damage to the Colt Galant. The mother of the victim testified only on the expenses she incurred and the shock she and her family have suffered as a result of the incident. But sad to say, she could not also pinpoint if it was the accused who committed the crime and be held responsible for it. This Court could only say that the prosecution has practically bungled this case from its inception.

x x x x

The defense furthermore argued that on the contrary, the prosecution's [evidence] conclusively show that the swerving of vehicle 1 [the Colt Galant] to the lane of vehicle 2 [the cargo truck] is the proximate cause of the accident. The court again is inclined to agree with this argument of the defense. It has looked carefully into the sketch of the accident as indicated in the police blotter and can only conclude that the logical explanation of the accident is that vehicle 1 swerved into the lane of vehicle 2, thus hitting the latter's inner fender and tires. Exhibit "7" which is a picture of vehicle 2 shows the extent of its damage which was the effect of vehicle 1's ramming into the rear left portion of vehicle 2 causing the differential guide of vehicle 2 to be cut, its tires busted and pulled out together with their axle. The cutting of the differential guide cause[d] the entire housing connecting the tires to the truck body to collapse, thus causing vehicle 2 to tilt to its left side and swerve towards the lane of vehicle 1. It was this accident that caused the swerving, not of [sic] any negligent act of the accused.

x x x x

Every criminal conviction requires of the prosecution to prove two things—the fact of the crime, i.e., the presence of all the elements of the crime for which the accused stands charged, and the fact that the accused is the perpetrator of the crime. Sad to say, the prosecution has miserably failed to prove these two things. When the prosecution fails to discharge its burden of establishing the guilt of the accused, an accused need not even offer evidence in his behalf.

x x x x

WHEREFORE, premises considered, the demurrer is granted and the accused JEFFREY RESO DAYAP is hereby acquitted for insufficiency of evidence. The bail bond posted for his temporary liberty is also hereby cancelled and ordered released to the accused or his duly authorized representative.

SO ORDERED.[13]

Respondents thereafter filed a petition for certiorari under Rule 65,[14] alleging that the MTC's dismissal of the case was done without considering the evidence adduced by the prosecution. Respondents added that the MTC failed to observe the manner the trial of the case should proceed as provided in Sec. 11, Rule 119 of the Rules of Court as well as failed to rule on the civil liability of the accused in spite of the evidence presented. The case was raffled to the Regional Trial Court (RTC) of Negros Oriental, Br. 32.

In the order[15] dated 23 August 2005, the RTC affirmed the acquittal of petitioner but ordered the remand of the case to the MTC for further proceedings on the civil aspect of the case. The RTC ruled that the MTC's recital of every fact in arriving at its conclusions disproved the allegation that it failed to consider the evidence presented by the prosecution. The records also demonstrated that the MTC conducted the trial of the case in the manner dictated by Sec. 11, Rule 119 of the Rules of Court, except that the defense no longer presented its evidence after the MTC gave due course to the accused's demurrer to evidence, the filing of which is allowed under Sec. 23, Rule 119. The RTC however agreed that the MTC failed to rule on the accused's civil liability, especially since the judgment of acquittal did not include a declaration that the facts from which the civil liability might arise did not exist. Thus, the RTC declared that the aspect of civil liability was not passed upon and resolved to remand the issue to the MTC. The dispositive portion of the decision states:

WHEREFORE, the questioned order of the Municipal Trial Court of Sibulan on accused's acquittal is AFFIRMED. The case is REMANDED to the court of origin or its successor for further proceedings on the civil aspect of the case. No costs.

SO ORDERED.[16]

Both parties filed their motions for reconsideration of the RTC order, but these were denied for lack of merit in the order[17] dated 12 September 2005.

Respondents then filed a petition for review with the Court of Appeals under Rule 42, docketed as CA-G.R. SP. No. 01179. The appellate court subsequently rendered the assailed decision and resolution. The Court of Appeals ruled that there being no proof of the total value of the properties damaged, the criminal case falls under the jurisdiction of the RTC and the proceedings before the MTC are null and void. In so ruling, the appellate court cited *Tulor v. Garcia* (correct title of the case is *Cuyos v. Garcia*)[18] which ruled that in complex crimes involving reckless imprudence resulting in homicide or physical injuries and damage to property, the jurisdiction of the court to take cognizance of the case is determined by the fine imposable for the damage to property resulting from the reckless imprudence, not by the corresponding penalty for the physical injuries charged. It also found support in Sec. 36 of the Judiciary Reorganization Act of 1980 and the 1991 Rule 8 on Summary Procedure, which govern the summary procedure in first-level courts in offenses involving damage to property through criminal negligence where the imposable fine does not exceed P10,000.00. As there was no proof of the total value of the property damaged and respondents were claiming the amount of P1,500,000.00 as civil damages, the case falls within the RTC's jurisdiction. The dispositive portion of the Decision dated 17 August 2006 reads:

WHEREFORE, premises considered, judgment is hereby rendered by Us REMANDING the case to the Regional Trial Court (RTC), Judicial Region, Branch 32, Negros Oriental for proper disposition of the merits

of the case.

SO ORDERED.[19]

Petitioner moved for reconsideration of the Court of Appeals decision,[20] arguing that jurisdiction over the case is determined by the allegations in the information, and that neither the 1991 Rule on Summary Procedure nor Sec. 36 of the Judiciary Reorganization Act of 1980 can be the basis of the RTC's jurisdiction over the case. However, the Court of Appeals denied the motion for reconsideration for lack of merit in the Resolution dated 25 April 2007.[21] It reiterated that it is the RTC that has proper jurisdiction considering that the information alleged a willful, unlawful, felonious killing as well as abandonment of the victims.

In the present petition for review, petitioner argues that the MTC had jurisdiction to hear the criminal case for reckless imprudence, owing to the enactment of Republic Act (R.A.) No. 7691,[22] which confers jurisdiction to first-level courts on offenses involving damage to property through criminal negligence. He asserts that the RTC could not have acquired jurisdiction on the basis of a legally unfiled and officially withdrawn amended information alleging abandonment. Respondents are also faulted for challenging the MTC's order acquitting petitioner through a special civil action for certiorari under Rule 65 in lieu of an ordinary appeal under Rule 42.

The petition has merit. It should be granted.

The first issue is whether the Court of Appeals erred in ruling that jurisdiction over the offense charged pertained to the RTC.

Both the MTC and the RTC proceeded with the case on the basis of the Information dated 29 December 2004 charging petitioner only with the complex crime of reckless imprudence resulting to homicide, less serious physical injuries and damage to property. The Court of Appeals however declared in its decision that petitioner should have been charged with the same offense but aggravated by the circumstance of abandonment of the victims. It appears from the records however that respondents' attempt to amend the information by charging the aggravated offense was unsuccessful as the MTC had approved the Provincial Prosecutor's motion to withdraw their motion to amend the information. The information filed before the trial court had remained unamended.[23] Thus, petitioner is deemed to have been charged only with the offense alleged in the original Information without any aggravating circumstance.

Article 365 of the Revised Penal Code punishes any person who, by reckless imprudence, commits any act which, had it been intentional, would constitute a grave felony, with the penalty of *arresto mayor* in its maximum period to *prision correccional* in its medium period. When such reckless imprudence the use of a motor vehicle, resulting in the death of a person attended the same article imposes upon the defendant the penalty of *prision correccional* in its medium and maximum periods.

The offense with which petitioner was charged is reckless imprudence resulting in homicide, less serious physical injuries and damage to property, a complex crime. Where a reckless, imprudent, or negligent act results in two or more grave or less grave felonies, a complex crime is committed.[24] Article 48 of the Revised Penal Code provides that when the single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period. Since Article 48 speaks of felonies, it is applicable to crimes through negligence in view of the definition of felonies in Article 3 as "acts or omissions punishable by law" committed either by means of deceit (*dolo*) or fault (*culpa*).[25] Thus, the penalty imposable upon petitioner, were he to be found guilty, is *prision correccional* in its medium period (2 years, 4 months and 1 day to 4 years) and maximum period (4 years, 2 months and 1 day to 6 years).

Applicable as well is the familiar rule that the jurisdiction of the court to hear and decide a case is conferred by the law in force at the time of the institution of the action, unless such statute provides for a retroactive application thereof.[26] When this case was filed on 29 December 2004, Section 32(2) of Batas Pambansa Bilang 129 had already been amended by R.A. No. 7691. R.A. No. 7691 extended the jurisdiction of the first-level courts over criminal cases to include 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 those for civil liability. It explicitly states "that in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof." It follows that criminal cases for reckless imprudence punishable with prison correccional in its medium and maximum periods should fall within the jurisdiction of the MTC and not the RTC. Clearly, therefore, jurisdiction to hear and try the same pertained to the MTC and the RTC did not have original jurisdiction over the criminal case.[27] Consequently, the MTC of Sibulan, Negros Oriental had properly taken cognizance of the case and the proceedings before it were valid and legal.

As the records show, the MTC granted petitioner's demurrer to evidence and acquitted him of the offense on the ground of insufficiency of evidence. The demurrer to evidence in criminal cases, such as the one at bar, is "filed after the prosecution had rested its case," and when the same is granted, it calls "for an appreciation of the evidence adduced by the prosecution and its sufficiency to warrant conviction beyond reasonable doubt, resulting in a dismissal of the case on the merits, tantamount to an acquittal of the accused." [28] Such dismissal of a criminal case by the grant of demurrer to evidence may not be appealed, for to do so would be to place the accused in double jeopardy.[29] But while the dismissal order consequent to a demurrer to evidence is not subject to appeal, the same is still reviewable but only by certiorari under Rule 65 of the Rules of Court. Thus, in such case, the factual findings of the trial court are conclusive upon the reviewing court, and the only legal basis to reverse and set aside the order of dismissal upon demurrer to evidence is by a clear showing that the trial court, in acquitting the accused, committed grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process, thus rendering the assailed judgment void.[30]

Accordingly, respondents filed before the RTC the petition for certiorari alleging that the MTC gravely abused its discretion in dismissing the case and failing to consider the evidence of the prosecution in resolving the same, and in allegedly failing to follow the proper procedure as mandated by the Rules of Court. The RTC correctly ruled that the MTC did not abuse its discretion in dismissing the criminal complaint. The MTC's conclusions were based on facts diligently recited in the order thereby disproving that the MTC failed to consider the evidence presented by the prosecution. The records also show that the MTC correctly followed the procedure set forth in the Rules of Court.

The second issue is whether the Court of Appeals erred in ordering the remand of the case of the matter of civil liability for the reception of evidence.

We disagree with the Court of Appeals on directing the remand of the case to the RTC for further proceedings on the civil aspect, as well as with the RTC in directing a similar remand to the MTC.

The acquittal of the accused does not automatically preclude a judgment against him on the civil aspect of the case. The extinction of the penal action does not carry with it the extinction of the civil liability where: (a) the acquittal is based on reasonable doubt as only preponderance of evidence is required; (b) the court declares that the liability of the accused is only civil; and (c) the civil liability of the accused does not arise from or is not based upon the crime of which the accused is acquitted.[31] However, the civil action based on delict may be deemed extinguished if there is a finding on the final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist[32] or where the accused did not commit the acts or omission imputed to him.[33]

Thus, if demurrer is granted and the accused is acquitted by the court, the accused has the right to adduce evidence on the civil aspect of the case unless the court also declares that the act or omission from which the civil liability may arise did not exist.[34] This is because when the accused files a demurrer to evidence, he has not yet adduced evidence both on the criminal and civil aspects of the case. The only evidence on record is the evidence for the prosecution. What the trial court should do is issue an order or partial judgment granting the demurrer to evidence and acquitting the accused, and set the case for continuation of trial for the accused to adduce evidence on the civil aspect of the case and for the private complainant to adduce evidence by way of rebuttal. Thereafter, the court shall render judgment on the civil aspect of the case.[35]

A scrutiny of the MTC's decision supports the conclusion that the acquittal was based on the findings that the act or omission from which the civil liability may arise did not exist and that petitioner did not commit the acts or omission imputed to him; hence, petitioner's civil liability has been extinguished by his acquittal. It should be noted that the MTC categorically stated that it cannot find any evidence which would prove that a crime had been committed and that accused was the person responsible for it. It added that the prosecution failed to establish that it was petitioner who committed the crime as charged since its witnesses never identified petitioner as the one who was driving the cargo truck at the time of the incident. Furthermore, the MTC found that the proximate cause of the accident is the damage to the rear portion of the truck caused by the swerving of the Colt Galant into the rear left portion of the cargo truck and not the reckless driving of the truck by petitioner, clearly establishing that petitioner is not guilty of reckless imprudence. Consequently, there is no more need to remand the case to the trial court for proceedings on the civil aspect of the case, since petitioner's acquittal has extinguished his civil liability.

WHEREFORE, the petition is GRANTED. The Court of Appeals' Decision dated 17 August 2006 and Resolution dated 25 April 2007 in CA-G.R. SP. No. 01179 are REVERSED and SET ASIDE. The Order dated 16 May 2005 of the Municipal Trial Court of Sibulan, Negros Oriental in Criminal Case No. 3016-04 granting the Demurrer to Evidence and acquitting petitioner Jeffrey Reso Dayap of the offense charged therein is REINSTATED and AFFIRMED.

SO ORDERED.

Quisumbing, Acting C.J., Corona,[*] Carpio-Morales, and Chico-Nazario,**] JJ., concur.

* Additional member in lieu of Associate Justice Presbitero J. Velasco, Jr. per Special Order No. 558.

** Additional member in lieu of Justice Arturo D. Brion per Special Order No. 562.

[1] Rollo, p. 3-26.

[2] Id. at 28-36. Penned by Justice Marlene Gonzales-Sison and concurred in by Justices Pampio A. Abarintos and Priscilla Baltazar-Padilla of the Twentieth (20[th]) Division, Court of Appeals, Cebu City.

[3] Id. at 38-42. Penned by Justice Stephen C. Cruz and concurred in by Justices Isaias P. Dicdican and Antonio L. Villamor of the Nineteenth (19[th]) Division, Court of Appeals, Cebu City.

[4] Records, p. 32.

[5] Rollo, p. 44; See Order dated 10 January 2005.

[6] Records, pp. 34-36.

[7] Id. at 37.

[8] Id. at 41.

[9] Rollo, p. 55.

[10] Records, pp. 80-92.

[11] Id. at 93-94.

[12] Rollo, pp. 72-74.

[13] Id. at 72 and 74.

[14] Records, pp. 3-11.

[15] Rollo, pp. 75-81.

[16] Id. at 81.

[17] Id. at 89-90.

[18] No. L-46934, 15 April 1998.

[19] Rollo, p. 35.

[20] Id. at 90-94.

[21] Supra note 2.

[22] Entitled "AN ACT EXPANDING THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS AND MUNICIPAL CIRCUIT TRIAL COURTS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 129, OTHERWISE KNOWN AS THE JUDICIARY REORGANIZATION ACT OF 1980," which took effect on 14 April 1994.

[23] See notes 8 and 9.

[24] *People v. de los Santos*, 407 Phil. 724, 744 (2001, citing *Reodica v. Court of Appeals*, 292 SCRA 87, 102 (1998).

[25] *People v. de los Santos*, 407 Phil. 724 (2001).

[26] *Venancio Figueroa y Cervantes v. People of the Philippines*, G.R. No. 147406, 14 July 2008, citing *Alarilla v. Sandiganbayan*, 393 Phil. 143, 155 (2000) and *Escovar v. Justice Garchitorena*, 466 Phil. 625, 635 (2004).

[27] *Venancio Figueroa y Cervantes v. People of the Philippines*, G.R. No. 147406, 14 July 2008.

[28] *People v. Sandiganbayan*, 488 Phil. 293, 310 (2004), citing *People v. City of Silay*, No. L-43790, 9 December 1976, 74 SCRA 247.

[29] Id.

[30] *People v. Uy*, G.R. No. 158157, 30 September 2005, 471 SCRA 668.

[31] *Hun Hyung Park v. Eung Won Choi*, G.R. No. 165496, 12 February 2007, 515 SCRA 502, 513.

[32] RULES OF COURT, Rule 111, Sec. 2, last par.

[33] *Salazar v. People*, 458 Phil. 504 (2003).

[34] Id. at 607.

[35] Id. at 518-519.

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