

BUENAVENTURA BELAMALA, PETITIONER-APPELLEE, VS. MARCELINO POLINAR, ADMINISTRATOR OPPOSITOR-APPELLANT.

G.R. No. 24093. November 18, 1967

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal from judgment of the Court of First Instance of Bohol (Sp. Proc. No. 369) allowing a money claim of appellee Belamala against the estate of the deceased Mauricio Polinar, for damages caused to the claimant. Originally taken to the Court of Appeals, the case was certified to this Court as involving only questions of law.

Issue in the case is whether the civil liability of an accused of physical injuries who dies before final judgment, is extinguished by his demise, to the extent of barring any claim therefor against his estate.

There is no dispute as to the facts, which were stipulated, in the court of origin, to be as follows (Rec. of Appeal, pp. 41-43):

"STIPULATED AGREEMENT OF FACTS

xxx xxx xxx

"1. That the claimant Buenaventura Belamala is the same offended party in Criminal Case No. 1922 filed before the COURT OF FIRST INSTANCE OF BOHOL, against the same Mauricio Polinar above mentioned and against other accused, for Frustrated Murder;

"2. That the administrator Marcelino Polinar is one of the legitimate children of the above mentioned Mauricio Polinar now deceased;

"3. That on May 24, 1954, the complaint for Frustrated Murder was filed in the Justice of the Peace of Clarin, Bohol against said Mauricio Polinar, et al., and when said case was remanded to the Court of First Instance of Bohol, the Information on said Criminal Case No. 1922 was filed on March 12, 1955;

"4. That on May 28, 1956, the COURT OF FIRST INSTANCE OF BOHOL rendered a decision thereof, convicting the said Mauricio Polinar of the crime of serious physical injuries and sentenced him to pay to the offended party Buenaventura Belamala, now claimant herein, the amount of P990.00, plus the amount of P35.80 as indemnity, the amount of P1,000.00 as moral damages;

"5. That on June 18, 1956, the accused (the late Mauricio Polinar) appealed to the Court of Appeals from the decision of the Court of First Instance of Bohol;

"6. That on July 27, 1956, while the appeal of said Mauricio Polinar was pending before the Court of Appeals, he died; and that there was no Notice or Notification of his death has ever been filed in the said Court of Appeals;

"7. That the decision of the Court of Appeals in said Criminal Case No. 1922, has affirmed the decision of the Court of First Instance of Bohol, in toto, and said decision of the Court of Appeals was promulgated on March 27,

1958; but said Mauricio Polinar has already died on July 27, 1956;

"8. That the late Mauricio Poliner is survived by his wife, Balbina Bongato and his children, namely:

1. Narcisa Polinar, Davao
2. Geronimo Polinar, Pagadian
3. Mariano Polinar, Clarin, Bohol
4. Ireneo Polinar, Clarin, Bohol.
5. Marcelino Polinar, Clarin, Bohol
6. Mauro Polinar, Clarin, Bohol
7. Demetrio Polinar, Clarin, Bohol

"9. That the parties have reserved to present in Court evidence on facts not agreed to herein by the parties."

It is to be observed that the reservation of additional evidence was waived by the parties at the trial (see Decision of trial court, Rec. App. p. 54).

The Court a quo overruling the contention of the Administrator-appellant that the death of the accused prior to final judgment extinguished all criminal and civil liabilities resulting from the offense, in view of Article 89, paragraph 1 of the Revised Penal Code, admitted the claim against the estate in the amount of P2,025.80 with legal interest from the date claim was filed (30 July 1959) until paid. No payment was ordered pending final determination of the sum total of claims admitted against the estate.

Not satisfied with the ruling, the Administrator has appealed, insisting on his theory in the Court below.

We see no merit in the plea that the civil liability has been extinguished, in view of the provisions of the Civil Code of the Philippines of 1950 (Rep. Act No. 886) that became operative eighteen years after the Revised Penal Code. As pointed out by the Court below, Article 88 of the Civil Code establishes a civil action for damages on account of physical injuries, entirely separate and distinct from the criminal action.

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

Assuming that for lack of express reservation, Belamala's civil action for damages was to be considered instituted together with the criminal action, still, since both proceedings were terminated without final adjudication, the civil action of the offended party under Article 33 may yet be enforced separately. Such claim in no way contradicts Article 108, of the Penal Code, that imposes the obligation to indemnify upon the deceased offender's heirs, because the latter acquire their decedent's obligations only to the extent of the value of the inheritance (Civil Code, Art. 774). Hence, the obligation of the offender's heirs under Article 108 ultimately becomes an obligation of the offender's estate.

The appellant, however, is correct in the contention that the claim should have been prosecuted by separate action against the administrator, as permitted by sections 1 and 2 of Revised Rule 87, since the claim is patently one "to recover damages for an injury to person or property (Rule 87, sec. 1). Belamala's action can not be enforced by filing a claim against the estate under Rule 86, because section 5 of that rule explicitly limits the claims to those for funeral expenses, expenses for last sickness, judgments for money and "claims against the decedent, arising from contract, express or implied;" and this last category (the other three being inapposite) includes only "all

purely personal obligations other than those which have their source in delict or tort" (Leung Ben vs. OBrien, 38 Phil. 182, 189-194) and Belamala's damages manifestly have a tortious origin. To this effect was our ruling in Aguas v. Llemos, L-18107, Aug. 30, 1962.

Furthermore, it does not appear that the award of the trial Court was based on evidence submitted to it; apparently it relied merely on the findings in the criminal case, as embodied in decisions that never became final because the accused died during the pendency of said case.

WHEREFORE, the decision under appeal is hereby reversed and set aside, but without prejudice to the action of appellee Belamala against the Administrator of the Estate of Mauricio Polinar. No costs.

SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

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