

**SPOUSES ENRIQUE LLONILLO AND MARITES LLONILLO,
PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.***G.R. No. 246787. January 30, 2024*

Ponente: ROSARIO, J.

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Before the Court is a Petition for Review[1] (Petition) on certiorari of the Decision[2] and Resolution[3] of the Court of Appeals (CA) which affirmed the Decision[4] of the Regional Trial Court (RTC). The RTC affirmed the Decision[5] of the Metropolitan Trial Court (MeTC), which found petitioners, spouses Enrique Llonillo (Enrique) and Marites Llonillo (Marites; collectively, spouses Llonillo), guilty beyond reasonable doubt of the crime of Other Deceits defined and penalized under Article 318, first paragraph of the Revised Penal Code.

Antecedents

Spouses Llonillo were charged with the crime of Estafa under Article 318 of the Revised Penal Code (Other Deceits) before the MeTC in an Information[6] dated December 17, 2012, which reads:

On the 30[th] day of March 2009, in the city of Makati, [] Philippines, accused[,], conspiring and confederating together and both of them mutually helping and aiding one another, did then and there willfully, unlawfully and feloniously defraud complainant Pedro Joel V. Caspillo in the following manner; accused by means of false manifestation and fraudulent representations they made to complainant to the effect that Unit H[,], at No. 236 Aguho St., was free from any encumbrances whatsoever and that by way of interest for loan extended, complainant is entitled to collect the rental directly from the occupants of the said unit, which representation they know for a fact to be false considering that the unit is already encumbered in violation of the Deed of Mortgage they executed, and that the rental cannot be collected as the occupant has previously entered into a similar agreement with accused and there appears to be no other reason but only to convince the complainant to part with his [PHP] 300,000.00 and in fact complainant delivered the amount to the accused, to his damage and prejudice.

CONTRARY TO LAW.[7]

Upon arraignment, spouses Llonillo pleaded not guilty to the crime charged.[8]

Pre-trial was conducted and thereafter, trial on the merits ensued.[9]

The facts, according to the prosecution,[10] are as follows:

Sometime in March 2009, spouses Llonillo approached private complainant Pedro Joel Caspillo (Caspillo) through Grace Pangan (Grace), their purported agent, and offered Caspillo a sangla-tira arrangement on several units of the two buildings they own located at 236 Aguho Street, Barangay Comembo, Makati City. Spouses Llonillo explained that they were looking for persons who could lend them money for a fixed period. They would enter into a written contract with the lender, and in consideration, the lender will be entitled to the rent of the apartment unit as interest, in the amount of PHP 10,000.00 per month. The loan will be paid in full at the end of

the period agreed upon.[11]

Spouses Llonillo assured Caspillo that the buildings and lots where the apartment units were built had no prior liens or encumbrances and showed him the Transfer Certificates of Title (TCT) covering the said properties.[12]

Enticed with spouses Llonillo's offer and assured that the properties were unencumbered, Caspillo lent them PHP 300,000.00 on March 30, 2009. Caspillo chose apartment unit H, which was unoccupied at that time. Simultaneously, Caspillo and spouses Llonillo executed a Memorandum of Agreement (MOA), where spouses Llonillo acknowledged receipt of the money, to be paid on or before March 20, 2010. The agreement as to the interest of PHP 10,000.00 per month was not indicated in the MOA since Caspillo himself occupied the unit.[13]

After 10 days, Caspillo put up unit H for rent and leased it to a friend, who only occupied it for a month. Caspillo then decided to use the unit by putting up a mini store, but it turned out to be unprofitable. Marites offered to find a lessee for unit H and assured Caspillo about the payment of the PHP 10,000.00 monthly rental.[14]

Unit H was thereafter occupied, but Caspillo failed to collect the monthly rentals thereon. Caspillo investigated the property and discovered that spouses Llonillo and the occupants of unit H, Germalyn Josol (Josol) and Rodrigo Arevalo, Jr. (Arevalo, Jr.), also entered into a sangla-tira arrangement over the same unit. Upon verification with the Registry of Deeds of Makati City, Caspillo also discovered that the properties involved in the sangla-tira arrangement were mortgaged to different banks, contrary to spouses Llonillo's representation during the negotiation.[15]

The period agreed upon in the MOA for the payment of the PHP 300,000.00 lapsed without any payment from the spouses Llonillo. Thus, Caspillo filed a complaint against spouses Llonillo for estafa under Article 318 of the Revised Penal Code.[16]

Spouses Llonillo denied the charges against them and interposed the following narrative[17] in their defense:

Marites inherited two 4-storey buildings consisting of several apartment units located at 236 Aguho Street, Barangay Comembo, Makati City (subject property). In constructing the buildings thereon, she mortgaged the subject property to different financial institutions and rented out the apartment units in the two buildings. The rentals from the apartment units were used to amortize the loans from the banks. Their agent, Grace, proposed a sangla-tira arrangement, whereby Grace would look for persons who could lend money to spouses Llonillo for a fixed period of time, and, in return, the lenders would occupy the apartment units and be entitled to the rental payment of the same as interest. One of the lenders referred by Grace is Caspillo.[18]

Marites alleged that she never met Caspillo, as it was Grace who brokered the entire transaction, including the preparation of the MOA. Marites claimed that when Grace presented the MOA to them, it was undated and incomplete. Marites also claimed that of the PHP 300,000.00 loan from Caspillo, she only received PHP 285,000.00 through Grace.[19]

Marites alleged that when she and Enrique encountered business reverses, especially when they were directly affected by typhoon Ondoy, PS Bank instituted foreclosure proceedings over the subject property. When the subject property was foreclosed, the bank notified the occupants/lessees that when the redemption period expires, the bank would dispossess them through court action. This caused the lessees to panic, some left the apartment units while others resorted to filing cases against them. Marites then stated that they were able to redeem the property sometime in March 2012.[20]

For his part, Enrique admitted that Caspillo extended to them a PHP 300,000.00 loan, but denied that he and Marites represented that their property was free from liens and encumbrances. He insisted that the transaction

between them and Caspillo was a simple loan and that Marites only transacted with Grace, not directly with Caspillo. He claimed to have met Caspillo only when the latter became a tenant in the subject property.[21]

While the case was pending before the MeTC, spouses Llonillo filed a Manifestation[22] with a prayer for the dismissal of the case. They stated that since the Information in the instant case did not bear the approval of the chief prosecutor of Makati City or its deputy state prosecutor, the same is invalid and in gross violation of Rule 112, Section 4, paragraph 3[23] of the Rules of Criminal Procedure. In an Order[24] dated August 4, 2015, the MeTC denied spouses Llonillo's prayer.

Ruling of the MeTC

In a Decision dated December 9, 2015, the MeTC found spouses Llonillo guilty of the crime charged:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused, ENRIQUE P. LLONILLO and MARITES LLONILLO y BITENG, guilty of the crime of Other Deceits defined and penalized under Art. 318, 1[st] par[.] of the Revised Penal Code and the said accused are hereby sentenced to suffer six (6) months imprisonment and to [pay] a fine of Three Hundred Thousand Pesos ([PHP] 300,000.00) with subsidiary imprisonment in case of failure to pay within fifteen days from notice.

Accused are ordered to pay complainant in the amount of Three Hundred Thousand Pesos ([PHP] 300,000.00) as actual damages plus 6% interest per annum from April 10, 2013 until the debt shall have been paid in full and the amount of [PHP] 30,000.00 as and by way of attorney's fees.

SO ORDERED.[25] (Emphasis in the original)

The MeTC found that the prosecution clearly established the fraudulent representation of spouses Llonillo since they subjected unit H to a sangla-tira arrangement with other individuals, despite their arrangement with Caspillo. Spouses Llonillo then misrepresented to Caspillo that he was entitled to the rentals of unit H as interest for the loan they obtained from him, which representation they knew to be false as unit H was also mortgaged to other individuals who eventually occupied the unit. The MeTC further found that such misrepresentation was designed to convince Caspillo to part with his money. No rent for unit H or interest for the money was given to Caspillo, and neither was the PHP 300,000.00 returned to him.[26]

The MeTC also held that spouses Llonillo intended to defraud Caspillo from the start, as only Enrique signed the MOA while Marites received the money. Enrique even admitted that Marites brought him the MOA for his signature after Marites received the PHP 300,000.00. For the MeTC, there appears to be a unity of purpose between spouses Llonillo, as it was clear that they agreed to offer a sangla-tira arrangement to different individuals for the same apartment unit and agreed on the execution of the MOA.[27]

The MeTC also found that there was a suppression of material fact, which spouses Llonillo were bound in good faith to disclose, when they rented out unit H to Arevalo, Jr.[28]

As regards spouses Llonillo's civil liability, the MeTC stated that the civil aspect of the case is deemed instituted with the criminal case, pursuant to Article 2201 of the Civil Code. Since spouses Llonillo admitted receiving PHP 300,000.00 from Caspillo, this amount should be returned with lawful interest from the time the case was filed in court, or on April 10, 2013.[29]

Aggrieved, spouses Llonillo appealed before the RTC.

Ruling of the RTC

The RTC affirmed the MeTC in a Decision dated April 27, 2016, the fallo of which reads:

WHEREFORE, premises considered, finding no reversible error in the assailed December 9, 2015 Decision of the court a quo, the same is hereby AFFIRMED in toto.

SO ORDERED.[30] (Emphasis and underscoring in the original)

The RTC found that spouses Llonillo did not present evidence to prove that they disclosed to Caspillo the fact of the mortgages with the bank when they entered into a sangla-tira arrangement. According to the RTC, such act constitutes false or fraudulent misrepresentation made or executed prior to or simultaneously with the commission of the fraud, and as a result, Caspillo suffered damage or prejudice.[31]

The RTC further held that the elements of deceit and damage are present in this case, as when spouses Llonillo transacted with Caspillo with respect to the sangla-tira of unit H, spouses Llonillo did not disclose the previous mortgages to other persons and banks. Such undisclosed fact is material to Caspillo's decision whether to part with his money.[32]

Spouses Llonillo filed a Motion for Reconsideration[33] which the RTC denied in an Order[34] dated June 27, 2016.

Undaunted, spouses Llonillo filed a Petition for Review[35] before the CA.

Ruling of the CA

The CA likewise affirmed the RTC in a Decision dated July 30, 2018. The fallo of which reads:

FOR THESE REASONS, the instant Petition is hereby ordered DISMISSED, and the appealed Decision dated 27 April 2016 and Order dated 27 June 2016 rendered by Branch 133 of the National Capital Judicial Region of the Regional Trial Court (RTC) of Makati City in Criminal Case No. 16-003 are AFFIRMED in toto.

SO ORDERED.[36] (Emphasis in the original)

According to the CA, "[t]he false or fraudulent representation by petitioners that the apartment unit is free from any encumbrance, when in fact said property was already covered by a previous mortgage, and that they, in fact employed such fraudulent act to obtain Three Hundred Thousand Pesos ([PHP] 300,000.00) from complainant Caspillo, is one of those deceitful acts envisaged in paragraph 1, Article 318 of the Revised Penal Code." [37]

The CA found that spouses Llonillo's fraudulent representation was clearly established when they made it appear that Caspillo could collect the rentals of unit H as interest for the loan they obtained from him, which representation they knew to be false as they mortgaged the unit to different banks and entered into a sangla-tira arrangement over the same unit with other people. It was based on the representation that unit H is free from encumbrance that Caspillo was convinced to part with his money. Spouses Llonillo's failure to disclose to Caspillo the previous mortgages involving unit H constitutes false or fraudulent misrepresentation, made or executed prior to or simultaneously with the commission of the fraud. Consequently, Caspillo suffered damage or prejudice.[38]

Spouses Llonillo filed a Motion for Reconsideration[39] which the CA denied in a Resolution dated April 15, 2019.

Hence, this Petition.

The Issues

In their Petition, spouses Llonillo claim that the CA erred in issuing the assailed Decision and Resolution for the following reasons:

1.

The criminal case against spouses Llonillo should have been dismissed for lack of jurisdiction over the case and over the person of the accused due to a void Information filed in court. The Information filed by Assistant City Prosecutor Benjamin S. Vermug, Jr. does not contain the written authority of the chief prosecutor and/or the deputy prosecutors, in violation of Rule 112, Section 4, paragraph 3 of the Revised Rules of Criminal Procedure, and as directed in *Quisay v. People*.^[40]

2.

(a) The alleged "failure to disclose material information" in Article 1339^[41] of the Civil Code cannot apply under loan agreement involving possession or "sangla-tira" since Caspillo possessed the subject premises for two years and used it as a siomai and rice store. This case was, thus, used to collect the amount of the loan and was purposely filed to avoid payment of filing fees.

(b) The CA also falsely pronounced that Caspillo failed to possess the subject premises, when in truth, the latter was able to use the subject premises for two years, as proven by Caspillo's testimony.

3.

Spouses Llonillo cannot be convicted: (a) for a future act or event, which transpired two years from the execution of the MOA; (b) based on allegations not stated in the Information, thus, violating their right to due process; and (c) based on a simple loan, which is not a crime.^[42]

Spouses Llonillo's issues can be summed up into two:

1.

Whether the MeTC had jurisdiction to hear, try, and decide the case due to a purportedly defective and void Information.

2.

Whether spouses Llonillo are guilty beyond reasonable doubt of Other Deceits punishable under Article 318 of the Revised Penal Code.

The Court's Ruling

The Petition is meritorious. While the MeTC had jurisdiction to hear, try, and decide the case, spouses Llonillo cannot be convicted of the crime charged.

At the outset, spouses Llonillo's arguments require the Court to examine the facts anew, which is beyond the ambit of a petition for review under Rule 45 of the Rules of Court. The determination of guilt is a question of fact, not entertained in a petition for review under Rule 45. Time and again, jurisprudence has established that the Court is not a trier of facts. Indeed, ordinarily, a petition for review on certiorari is limited only to questions of law.^[43]

Nonetheless, under exceptional circumstances, this Court admits and reviews questions of fact under Rule 45, which exceptions include: (1) when the conclusion is a finding grounded entirely on speculation, surmises or

conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) the findings of the CA are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition, as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) the finding of fact of the CA is premised on the supposed absence of evidence and is contradicted by the evidence on record.[44] The Court finds that the fourth exception applies to the case.

The Information herein sufficiently conferred upon the MeTC the authority to hear, try, and decide the case

Spouses Llonillo rely on Quisay in arguing that the criminal case against them should have been dismissed due to the lack of written authority of the chief prosecutor and/or deputy prosecutors in the Information.

Spouses Llonillo's argument is without merit. The doctrine in Quisay was abandoned by the Court in *Gomez v. People*,[45] as follows:

All told, the handling prosecutor's authority, particularly as it does not appear on the face of the Information, has no connection to the trial court's power to hear and decide a case. Hence, Sec. [3(d)], Rule 117, requiring a handling prosecutor to secure a prior written authority or approval from the provincial, city or chief state prosecutor before filing an Information with the courts, may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea. If, at all, such deficiency is merely formal and can be cured at any stage of the proceedings in a criminal case.

Moreover, both the State and the accused are entitled to the constitutional guarantee of due process — especially when the most contentious of issues involve jurisdictional matters. A denial of such guarantee against any of the parties of the case amounts to grave abuse of discretion. Consequently, a judgment of acquittal or order of dismissal amounting to an acquittal which is tainted with grave abuse of discretion becomes void and cannot amount to a first jeopardy.

Henceforth, all previous doctrines laid down by this Court, holding that the lack of signature and approval of the provincial, city or chief state prosecutor on the face of the Information shall divest the court of jurisdiction over the person of the accused and the subject matter in a criminal action, are hereby abandoned. It is sufficient for the validity of the Information or Complaint, as the case may be, that the Resolution of the investigating prosecutor recommending for the filing of the same in court bears the imprimatur of the provincial, city or chief state prosecutor whose approval is required by Sec. 1 of R.A. No. 5180 and is adopted under Sec. 4, Rule 112 of the Rules of Court.[46]

Accordingly, the MeTC had jurisdiction to hear, try, and decide the instant case.

Spouses Llonillo are not guilty beyond reasonable doubt of the crime charged

The RTC and the CA found spouses Llonillo guilty of the crime of Other Deceits under Article 318, paragraph 1 of the Revised Penal Code, which reads:

ARTICLE 318. Other deceits. The penalty of arresto mayor and a fine of not less than the amount of the damage caused and not more than twice such amount shall be imposed upon any person who shall defraud or damage another by any other deceit not mention in the preceding articles of this chapter.

In *Osorio v. People*,[47] We reiterated that Article 318 is broad in application and is intended as a catch-all provision to cover all other kinds of deceit not falling under Articles 315, 316, and 317 of the Revised Penal Code.[48] For an accused to be held criminally liable under Article 318, the following elements must exist:

(a) [The accused makes a] false pretense, fraudulent act or pretense other than those in [Articles 315, 316, and 317]; (b) such false pretense, fraudulent act or pretense must be made or executed prior to or simultaneously with the commission of the fraud; and (c) as a result, the offended party suffered damage or prejudice.[49]

In *Marcos v. People*,^[50] the Court elaborated on the definitions of "false pretense" and "fraudulent concealment":

Specifically, false pretense is an intentional false statement concerning a material matter of fact. False pretense may be established by conduct and acts, as well as by words, written or spoken.

On the other hand, for concealment to be fraudulent, the purpose or design of which is to hide facts the other party ought to know. "Failure to reveal a fact [that] the seller is, in good faith, bound to disclose may generally be classified as a deceptive act due to its inherent capacity to deceive. Suppression of a material fact [that] a party is bound, in good faith, to disclose is equivalent to a false representation."

In *Guinhawa v. People* . . . , the Court had the occasion to illustrate what constitutes fraudulent concealment punishable as Other Deceits under Article 318 (1) of the RPC. In the said case, Guinhawa was a dealer of brand new cars in Naga City. He purchased a brand new L-300 van from the Union Motors Corporation in Manila to be resold in his office and display room in Naga City. However, on the way to Naga City, the van met an accident that caused it to be repaired for damages. Nevertheless, Guinhawa displayed the van in its show room, making it appear to the public that it was brand new. When complainants bought the van, Guinhawa never revealed that the same was defective. The complainants, within a few days after the sale of the van, soon discovered its defects. The Court held that Guinhawa's deliberate concealment of the van's defects is fraudulent because as the seller, he had the duty to disclose materials [sic] facts, such as the real condition of the van.^[51] (Citations omitted)

It is essential that such false statement or fraudulent representation constitutes the very cause or the only motive for the private complainant to part with their property.^[52]

In claiming that spouses Llonillo are guilty of violation of Article 318 of the Revised Penal Code, the prosecution posited that spouses Llonillo did not disclose the material fact that the subject property was mortgaged to banks and to other persons. Such nondisclosure allegedly led Caspillo to believe that he would be entitled to the rentals of unit H. This misrepresentation prodded Caspillo into entering an agreement with spouses Llonillo and parting with the amount of PHP 300,000.00.

However, contrary to Caspillo's avowal in his Complaint-Affidavit,^[53] his testimony evinces that when he entered into an agreement with spouses Llonillo, he already knew that the subject property was already mortgaged to banks. Caspillo testified:

Q

And isn't it a fact, Mr. Witness, that you even testified, that according to you, before you entered into a loan agreement the accused presented to you the copy of certificate of title, correct?

A

Yes, sir.

....

Q

And what were presented to you are two separate copies of certificate of titles, correct?

A

Yes, sir.

....

Q

Which were presented to you before entering into a loan agreement, isn't it a fact, at the dorsal portion of the last page thereof on both titles, there is already an entry that the property is already [] mortgaged to a financial institution?

A

Yes.

....

Q

And, of course, Mr. Witness, you examined these titles, correct?

A

Yes, I saw that, sir.[54]

....

Q

Did it not occur to your mind that the accused cannot present you the original of these titles, because it is in the possession of the bank where it is mortgaged, correct?

A

Yes, sir.

Q

You know that fact?

A

Yes, sir.

....

Q

Because when they executed [the mortgage] contract with the bank, they are required to surrender the possession of the original of these certificates of titles, correct?

A

Yes, sir.

Q

Are you aware of that?

A

Yes, sir.[55]

Caspillo's categorical and unequivocal admission carries weight and conviction when juxtaposed with his subsequent assertion that "he was shown photocopies of the TCT and OCT covering the lots where the buildings were located, but he did not read the annotations anymore because they were negotiating hurriedly." [56]

Judicial admissions made by parties during trial in the same case are conclusive and do not require further evidence to prove them.[57] "They are legally binding on the party making them except when it is shown that they have been made through palpable mistake, or that no such admission was made,"[58] neither of which exists in this case.

Therefore, there is no suppression of a material fact anent the real estate being mortgaged to banks at the time of the execution of the MOA. Even the MeTC did not anchor its finding of the purported fraudulent representation on spouses Llonillo's supposed nondisclosure of previous mortgage to banks. Rather, the MeTC found that the misrepresentation was spouses Llonillo's act of making unit H the subject of the sangla-tira scheme to other persons.[59]

However, neither can the sangla-tira scheme regarding unit H entered into by spouses Llonillo with other persons be considered as being "made prior to or simultaneously with the commission of the fraud." When spouses Llonillo and Caspillo executed the MOA in 2009, unit H was not covered by any sangla-tira to any person except Caspillo. It was only after, i.e., in 2011 and 2012, that spouses Llonillo entered into sangla-tira arrangements with Arevalo, Jr. and Josol, respectively.[60]

Hence, there can be no misrepresentation at the time of the MOA's execution. Consequently, the prosecution failed to prove that there was a false pretense and that such false pretense was made or executed prior to or simultaneously with the commission of the fraud.

As mentioned, there are three elements of the crime of Other Deceits under Article 318 of the Revised Penal Code: (a) false pretense, fraudulent act or pretense other than those in [Articles 315, 316, and 317]; (b) such false pretense, fraudulent act or pretense must be made or executed prior to or simultaneously with the commission of the fraud; and (c) as a result, the offended party suffered damage or prejudice. In this case, the first and second elements do not exist as there was no false pretense. However, the element of damage still exists: there is no proof that spouses Llonillo have paid Caspillo the full amount of their PHP 300,000.00 loan. There is still an act from which civil liability might arise: the act of loaning PHP 300,000.00 and not timely paying it back despite demand.

Accordingly, the prosecution failed to prove spouses Llonillo's guilt beyond reasonable doubt.

Spouses Llonillo's civil liability

Records reveal that Caspillo still suffered damage due to spouses Llonillo's act of borrowing the amount of PHP 300,000.00 without paying him back on the date agreed upon. Spouses Llonillo's act of borrowing PHP 300,000.00 is evidenced by the MOA (a contract) and the testimonies of Caspillo and spouses Llonillo.

Considering the foregoing, may spouses Llonillo be adjudged liable in this action for the PHP 300,000.00 loan despite their acquittal due to failure to prove their guilt beyond reasonable doubt? Stated differently, in case of acquittal of an accused, may civil liability arising from sources other than the offense charged be adjudged in the same criminal action?

Article 29 of the Civil Code provides:

ARTICLE 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground.

Corollary to Article 29 of the Civil Code is Article 100 of the Revised Penal Code:

ARTICLE 100. Civil Liability of a Person Guilty of Felony. — Every person criminally liable for a felony is also civilly liable.

Civil liability arising from crimes are governed by penal laws, subject to Articles 29 to 35, 2176, 2177, and 2202, 2204, 2206, 2215, 2230, 2233, and 2234 of the Civil Code and to Rule 111 of the Rules of Court.[61]

The last paragraph of Rule 111, Section 2 of the Rules of Court provides:

SECTION 2. When separate civil action is suspended. —

. . . .

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

In *De Guzman v. Alvia*,[62] the Court held:

The acquittal of Magdalena in Criminal Case No. 8776 was not due to her guilt not having been proven beyond reasonable doubt but because there being no misappropriation or conversion or bad faith, the crime charged was not committed. What in [Our] opinion is applicable is Rule 107, section 1, paragraph (d) of the Rules of Court which reads thus:

Extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In the other cases, the person entitled to the civil action may institute it in the jurisdiction and in the manner provided by law against the person who may be liable for restitution of the thing and reparation or indemnity for the damages suffered[.]

Inasmuch as the final judgment in Criminal Case No. 8776 against Magdalena does not contain any declaration that the fact from which civil liability might arise did not exist but on the contrary, it found that she received the jewelry and it intimated that her responsibility was civil rather than criminal, then the civil action was not extinguished.[63]

Rule 120, Section 2 of the said Rules also provides:

SECTION 2. Contents of the Judgment. — If the judgment is of conviction, it shall state (1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory; (3) the penalty imposed upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.

In case the judgment is of acquittal, it shall state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist. (Emphasis supplied)

It must be emphasized that Article 29 of the Civil Code does not prohibit the rendition of a judgment of acquittal and a judgment awarding damages in the same criminal action. Rule 120, Section 2 of the Rules of Court, as quoted above, recognizes this as well, hence, the directive that the "judgment shall determine if the act or omission from which the civil liability might arise did not exist."

In *Padilla v. Court of Appeals*,^[64] the Court stressed that Article 29 allows courts to adjudge civil liability in the same criminal case where the judgment of acquittal was pronounced.

Since *Padilla* is an En Banc decision, subsequent decisions holding otherwise, rendered by the Court in division, cannot overturn *Padilla*. Article VIII, Section 4(3) of the Constitution is instructive:

[N]o doctrine or principle of law laid down by the (Supreme) Court en banc or its Divisions may be modified or reversed except by the Court sitting en banc.^[65]

Therefore, it behooves the Court to rely on the doctrine in *Padilla*, i.e., that courts may adjudge civil liability in the same criminal case where the judgment of acquittal was pronounced.

From the foregoing doctrine, the Court explained in *De Leon, Jr. v. Roqson Industrial Sales, Inc.*^[66] that "[w]ith criminal absolution, Article 29 contemplates an 'act or omission' from which liability may arise based on the other sources of obligations which are independent of the delict."^[67] These other sources of obligation are those enumerated in Article 1157 of the Civil Code: law, contracts, quasi-contracts, and quasi-delicts.

Hence, the following ruling in *Padilla*:

The judgment of acquittal extinguishes the liability of the accused for damages only when it includes a declaration that the facts from which the civil might arise did not exist. Thus, the civil liability is not extinguished by acquittal where the acquittal is based on reasonable doubt. . . as only preponderance of evidence is required in civil cases; where the court expressly declares that the liability of the accused is not criminal but only civil in nature. . . as, for instance, in the felonies of estafa, theft, and malicious mischief committed by certain relatives who thereby incur only civil liability; and, where the civil liability does not arise from or is not based upon the criminal act of which the accused was acquitted[.]^[68] (Citations omitted)

The ruling in *Padilla*, which is reiterated in later cases, presumes that the surviving civil liability is sourced from an obligation other than the criminal charge. Thus, it can be deduced that a single act or omission can give rise to civil liability premised on a legal provision, a contractual or quasi- contractual obligation, a quasi-delict, and/or the commission of a criminal offense. These are exemplified in the following cases:

In *Sapiera v. Court of Appeals*,^[69] the petitioner was charged with estafa after using checks, which were later dishonored, to pay for groceries. Although the petitioner was acquitted due to insufficiency of evidence, she was

adjudged civilly liable for the unpaid value of the checks as the facts established by the evidence therein so warrant. The petitioner's liability for the unpaid value of the checks was based on contract.

In *Manantan v. Court of Appeals*,^[70] the petitioner was acquitted on reasonable doubt of the crime of reckless imprudence resulting in homicide. Nonetheless, he was held civilly liable for loss of support, moral damages, and death indemnity due to his negligent and reckless act of driving his car which was the proximate cause of the vehicular accident resulting in the victim's death. The petitioner's civil liability was based on quasi-delict.

In *Lumantas v. Spouses Calapiz, Jr.*,^[71] the petitioner was charged with reckless imprudence resulting in serious physical injuries after his operation on a patient caused a damaged urethra. The petitioner was acquitted as the prosecution failed to prove his criminal negligence with moral certainty. However, there was preponderant evidence of his negligence to hold him civilly liable. Hence, the petitioner was held liable to the victim for moral damages. The petitioner's civil liability in this case was also based on quasi-delict.

In *Chiok v. People*,^[72] the petitioner was acquitted of the crime of estafa under Article 315, paragraph 1(b) of the Revised Penal Code as the allegation of misappropriation of private complainant's money was not proven beyond reasonable doubt. Nonetheless, the petitioner was held civilly liable as the monetary transaction between petitioner and private complainant and the amount given to petitioner, were shown by preponderance of evidence. The petitioner's civil liability was based on contract.

In *Horca v. People*,^[73] the petitioner was charged with the crime of theft for failure to return the money given to her to purchase airline tickets despite the flight's cancellation. The petitioner was acquitted on reasonable doubt for the prosecution's failure to sufficiently prove the element of taking with intent to gain. However, she was held civilly liable as there was preponderant evidence to establish her liability. Private complainants therein were still prejudiced when they paid for the tickets but did not get reimbursed when the flight was cancelled. The petitioner's civil liability was based on contract.

It was also observed in *De Leon, Jr.* that in cases where civil liability survives despite an acquittal based on reasonable doubt, "the underlying transactions or events that gave rise to the damage sustained by the complaining party, at the very least, ascribed responsibility or benefit on the part of the acquitted, thereby justifying a finding of civil liability."^[74]

It bears reiterating that Rule 120, Section 2 of the Rules of Court states that "[i]n case the judgment is of acquittal, it shall state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove [their] guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist."

It is also established that acquittal in a criminal case does not bar continuation of the civil case connected therewith where: (1) the acquittal is based on reasonable doubt; (2) the decision contains a declaration that the liability of the accused is not criminal but only civil; or (3) the civil liability is not derived from or based on the criminal act of which the accused is acquitted.^[75]

Law and jurisprudence have therefore recognized the existence of civil liability not derived from the crime despite an accused's acquittal, and that the civil action to enforce that civil liability can be made in the same criminal action.

Hence, despite the limitation in Rule 111, Section 1(a)^[76] of the Rules of Court, the civil liability from sources other than the delict may be adjudged in the same criminal action, if the act or omission complained of in the criminal action is the same or is related to the act or omission giving rise to the civil liability. And this can be done without violation of the right to due process.

Assuming the offended party does not waive the civil action, does not reserve the right to institute it separately, or does not institute the civil action prior to the criminal action, the accused is presumed to know that their civil liability from the offense charged is deemed instituted with the criminal action, as stated in Rule 111, Section 1 of the Rules of Court.

Interpreting Rule 111, Section 1 of the Rules of Court with the Revised Penal Code provisions on what is included in civil liability and how it is extinguished,[77] the accused should already present all defenses available to them to also defend themselves against restitution of the thing itself, reparation for the alleged damage caused, and indemnification of consequential damages.

If the act or omission complained of in the criminal action is the same or is related to the act or omission giving rise to the civil liability arising from sources other than the delict, the accused should already be prepared to defend themselves against civil liability arising from these other sources. They cannot claim that they were deprived of due process if based on this single act or omission, they are acquitted but are made civilly liable for the same act or omission.

In *First Producers Holdings Corporation v. Co*,[78] a case involving a criminal action for estafa, the Court held that the accused may invoke all defenses pertaining to their civil liability in the criminal action:

We find no sufficient reason why the trial court hearing the criminal case cannot resolve the question of ownership. Significantly, the civil action for recovery of civil liability is impliedly instituted with the filing of the criminal action. Hence, respondent may invoke all defenses pertaining to [their] civil liability in the criminal action. In fact, there is no law or rule prohibiting [them] from airing exhaustively the question of ownership. After all, the trial court has jurisdiction to hear the said defense. The rules of evidence and procedure for the recovery of civil liabilities are the same in both criminal and civil cases.[79] (Emphasis supplied)

The foregoing rule was reiterated in *Sabandal v. Tongco*,[80] which involves an accused's claim of overpayment raised in a civil action. The Court therein held:

Petitioner's claim of overpayment to respondent may be raised as a defense during the trial of the cases for violation of Batas Pambansa Bilang 22 charged against him. The civil action for recovery of civil liability is impliedly instituted with the filing of the criminal action. Hence, petitioner may invoke all defenses pertaining to his civil liability in the criminal action.[81]

In *Salazar v. People*,[82] the Court pronounced that in a criminal action, the prosecution presents evidence not only to prove the guilt of the accused beyond reasonable doubt, but also to prove the civil liability of the accused to the offended party. The offended party or the accused may even appeal the civil aspect of the case should the accused be acquitted but be found civilly liable:

The criminal action has a dual purpose, namely, the punishment of the offender and indemnity to the offended party. The dominant and primordial objective of the criminal action is the punishment of the offender. The civil action is merely incidental to and consequent to the conviction of the accused. The reason for this is that criminal actions are primarily intended to vindicate an outrage against the sovereignty of the state and to impose the appropriate penalty for the vindication of the disturbance to the social order caused by the offender. On the other hand, the action between the private complainant and the accused is intended solely to indemnify the former.

....

The prosecution presents its evidence not only to prove the guilt of the accused beyond reasonable doubt but also to prove the civil liability of the accused to the offended party. After the prosecution has rested its case,

the accused shall adduce its evidence not only on the criminal but also on the civil aspect of the case.

....

If the accused is acquitted on reasonable doubt but the court renders judgment on the civil aspect of the criminal case, the prosecution cannot appeal from the judgment of acquittal as it would place the accused in double jeopardy. However, the aggrieved party, the offended party or the accused or both may appeal from the judgment on the civil aspect of the case within the period therefor.[83]

It is the accused's duty to still defend themselves against this civil liability since, as mentioned, the act or omission complained of in the criminal action may be the same or may be related to the act or omission giving rise to the civil liability arising from sources other than the delict.

Civil liability can, thus, be adjudged in a criminal case, regardless of the legal source of the obligation, while still complying with the requirements of due process. However, the civil liability which can be adjudged in criminal proceedings must be related to the same act or omission complained of in the criminal charge, but it need not be legally sourced from the commission of the criminal offense. When the civil liability of the accused arising from a source of obligation other than the crime, such as law, contract, quasi-contract, or quasi-delict, has already been established by a preponderance of evidence, it can be imposed in the same criminal proceeding.

For uniformity, there is a need to come up with parameters for the award of civil liability based on sources other than the delict. Thus:

The award of civil liability based on sources other than the delict can be made in the same criminal action, subject to the following conditions: (1) the act or omission complained of in the criminal action is the same or is related to the act or omission giving rise to the civil liability; (2) the civil liability of the accused was raised in the criminal action; (3) the accused was given the opportunity to be heard on this point; and (4) the civil liability of the accused was established by a preponderance of evidence.

As applied in this case, the other source of obligation on which spouses Llonillo's civil liability is based in contract, i.e., the MOA they entered into with Caspillo.

The acts complained of in the criminal action are the alleged nondisclosure of mortgages over the properties rented by Caspillo and execution of sangla-tira arrangements with other persons, allegedly depriving Caspillo of the rentals promised to him pursuant to the MOA with spouses Llonillo. These acts were allegedly done to enable spouses Llonillo to borrow PHP 300,000.00 from Caspillo. The nonpayment of the PHP 300,000.00 loan is the damage caused to Caspillo. It cannot therefore be denied that the loan to spouses Llonillo is related to the acts complained of in the criminal action. Hence, the first condition is complied with.

The second and third conditions were also complied with. Records show that spouses Llonillo's civil liability, i.e., their PHP 300,000.00 debt to Caspillo, was raised in the criminal action. As the MeTC found: spouses Llonillo admitted the loan, and when asked if she ever paid the principal loan, Marites alleged she did but admitted she has no documentary proof.[84]

Spouses Llonillo's allegation of payment is a mere allegation, without substantiation. They had every opportunity to prove payment, especially since the MeTC ordered them to pay Caspillo the amount of PHP 300,000.00 as actual damages until the debt shall have been paid in full.[85] However, spouses Llonillo never submitted proof of payment of the loan, even partial payment thereof. It is for this reason that the MeTC adjudged spouses Llonillo civilly liable to Caspillo for PHP 300,000.00 as actual damages.

Since spouses Llonillo admitted but failed to present evidence of any payment, the evidence tilts in favor of

Caspillo. Hence, the fourth condition was also complied with: there is preponderance of evidence showing that spouses Llonillo are still liable to Caspillo for PHP 300,000.00.

Thus, spouses Llonillo should be adjudged civilly liable to Caspillo for the full amount of the loan, with interest of 12% per annum from the time of the filing of the case in court (i.e., April 10, 2013^[86]) until June 30, 2013, and 6% per annum from July 1, 2013 until finality of this Decision. The total amount due shall earn interest of 6% per annum from the finality of this Decision until full payment.^[87]

ACCORDINGLY, the Petition is GRANTED. The July 30, 2018 Decision and the April 15, 2019 Resolution of the Court of Appeals in CA-G.R. CR. No. 38855 are REVERSED and SET ASIDE. Petitioners spouses Enrique and Marites Llonillo are ACQUITTED of the crime of Other Deceits under the first paragraph of Article 318 of the Revised Penal Code.

Petitioners spouses Enrique and Marites Llonillo are liable to pay private complainant Pedro Joel Caspillo the principal amount of PHP 300,000.00, plus legal interest of 12% per annum from April 10, 2013 until June 30, 2013, and 6% per annum from July 1, 2013 until finality of this Decision. The total amount due shall earn interest of 6% per annum from the finality of this Decision until full payment.

SO ORDERED.

Zalameda and Marquez, JJ., concur.

Gesmundo, C.J., please see concurring opinion.

Leonen, SAJ., dissent and joined Justice Dimaampao.

Caguioa and Hernando, JJ., see concurring opinion.

Lazaro-Javier, J., see concurrence.

Inting and M. Lopez, JJ., joined in the opinion of J. Dimaampao.

Gaerlan, J., see dissenting opinion.

J. Lopez, J., with separate opinion.

Dimaampao, J., see concurring and dissenting opinion.

Kho, Jr., J., joined the concurring and dissenting opinion of J. Dimaampao.

Singh, J., see separate concurring opinion.

[1] Rollo, pp. 3–103.

[2] Id. at 104–122. The July 30, 2018 Decision in CA-G.R. CR No. 38855 was penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Rosmari D. Carandang (a retired Member of the Court) and Pedro B. Corales of the Third Division, Court of Appeals, Manila.

[3] Id. at 123–127. The April 15, 2019 Resolution in CA-G.R. CR No. 38855 was penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Apolinario D. Bruselas, Jr. and Pedro B. Corales of the Special Former Third Division, Court of Appeals, Manila.

[4] Id. at 196–202. The April 27, 2016 Decision in Criminal Case No. 16-003 was penned by Presiding Judge Elpidio R. Calis of Branch 133, Regional Trial Court, Makati City.

[5] Id. at 187–195. The December 9, 2015 Decision in Crim. Case No. 373324 was penned by Presiding Judge Henry E. Laron of Branch 65, Metropolitan Trial Court, Makati City.

[6] Id. at 138–139.

[7] Id. at 138.

[8] Id. at 188.

[9] Id. at 105.

[10] Id. at 188–189.

[11] Id. at 188.

[12] Id.

[13] Id.

[14] Id.

[15] Id. at 188–189.

[16] Id. at 189.

[17] Id. at 189–191.

[18] Id. at 189–190.

[19] Id. at 190.

[20] Id.

[21] Id. at 191.

[22] Id. at 180–181.

[23] Rule 112, Section 4. . . .

. . . .

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

[24] Rollo, p. 182. The August 4, 2015 Order in Crim. Case No. 373324 was penned by Presiding Judge Henry E. Laron of Branch 65, Metropolitan Trial Court, Makati City.

[25] Id. at 195.

[26] Id. at 193.

[27] Id. at 194.

[28] Id.

[29] Id. at 194–195.

[30] Id. at 202.

[31] Id. at 201.

[32] Id. at 202.

[33] Id. at 203–207.

- [34] Id. at 208. The June 27, 2016 Order in Criminal Case No. 16-003 was penned by Presiding Judge Elpidio R. Calis of Branch 133, Regional Trial Court, Makati City.
- [35] Id. at 209–290.
- [36] Id. at 121–122.
- [37] Id. at 115.
- [38] Id. at 116–118.
- [39] Id. at 351–369.
- [40] 778 Phil. 481 (2016) [Per J. Perlas-Bernabe, First Division].
- [41] Petitioners, however, cite Article 1389 of the Civil Code (rollo, pp. 18, 50).
- [42] Rollo, pp. 18–19.
- [43] See *Lisaca v. People*, G.R. No. 251131, July 6, 2021 [Per J. Carandang, First Division].
- [44] Id.
- [45] 889 Phil. 915 (2020) [Per J. Gesmundo, En Banc].
- [46] Id. at 983–984.
- [47] 834 Phil. 768 (2018) [Per J. Leonen, Third Division].
- [48] Id. at 783.
- [49] Id., citing *Guinhawa v. People*, 505 Phil. 383,400 (2005) [Per J. Callejo, Sr., Second Division].
- [50] G.R. No. 252839, November 10, 2021 [Per J. Carandang, Third Division].
- [51] Id.
- [52] *Guinhawa v. People*, 505 Phil. 383, 400–401 (2005) [Per J. Callejo, Sr., Second Division].
- [53] Rollo, pp. 128–130.
- [54] See TSN, Pedro Joel V. Caspillo, August 19, 2014, pp. 6–9 (rollo, pp. 429–432).
- [55] Id. at 57–58 (rollo, pp. 480–481).
- [56] See December 9, 2015 Metropolitan Trial Court Decision, rollo, p. 189.
- [57] *Hun Hyung Park v. Eung Won Choi*, 850 Phil. 807, 830 (2019) [Per J. Caguioa, Second Division].
- [58] Id.
- [59] Rollo, p. 193.
- [60] See Formal Offer of Evidence, rollo, p. 155; see also TSN, Pedro Joel V. Caspillo, August 19, 2014, pp. 34–36 (rollo, pp. 457–459).
- [61] LUIS B. REYES, THE REVISED PENAL CODE, BOOK I 909 (20[th] ed., 2021).
- [62] 96 Phil. 558 (1955) [Per J. Montemayor, En Banc].

[63] *Id.* at 563.

[64] 214 Phil. 492 (1984) [Per J. Gutierrez, Jr., En Banc].

[65] See *In Re: Petition Seeking for Clarification as to the Validity and Forceful Effect of Two (2) Final and Executory but Conflicting Decisions of the Honorable Supreme Court*, 438 Phil. 252 (2002) [Per J. Sandoval-Gutierrez, En Banc].

[66] G.R. No. 234329, November 23, 2021 [Per J. Caguioa, First Division].

[67] *Id.* at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[68] *Padilla v. Court of Appeals*, 214 Phil. 492, 500–501 (1984) [Per J. Gutierrez, Jr., En Banc].

[69] 373 Phil. 148 (1999) [Per J. Bellosillo, Second Division].

[70] 403 Phil. 298 (2001) [Per J. Quisumbing, Second Division].

[71] 724 Phil. 248 (2014) [Per J. Bersamin, First Division].

[72] 774 Phil. 230 (2015) [Per J. Jardeleza, Third Division].

[73] G.R. No. 224316, November 10, 2021 [Per J. Hernando, Second Division].

[74] G.R. No. 234329, November 23, 2021 [Per J. Caguioa, First Division] at 7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[75] *Sadio v. Hon. Regional Trial Court of Antique, Branch 10, Sixth Judicial Region, San Jose, Antique*, 278 Phil. 731 (1991) [Per J. Cruz, First Division]; see also *Cheng v. People*, G.R. No. 207373, March 23, 2022 [Per J. Gaerlan, First Division] at 12 (this pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website); *Collado v. Dela Vega*, 891 Phil. 206, 210–211 (2020) [Per J. Lopez, Second Division]; *Rimando v. Spouses Aldaba*, 745 Phil. 358, 362–363 (2014) [Per J. Perlas-Bernabe, First Division]; *Dayap v. Sendiong*, 597 Phil. 127, 141 (2009) [Per J. Tinga, Second Division]; *Hun Hyung Park v. Eung Won Choi*, 544 Phil. 431, 444 (2007) [Per J. Carpio Morales, Second Division]; *Sapiera v. Court of Appeals*, 373 Phil. 148, 153 (1999) [Per J. Bellosillo, Second Division].

[76] Sec. 1. Institution of criminal and civil actions. — (a) When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

The reservation of the right to institute separately the civil action shall be made before the prosecution starts presenting its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation.

When the offended party seeks to enforce civil liability against the accused by way of moral, nominal, temperate, or exemplary damages without specifying the amount thereof in the complaint or information, the filing fees thereof shall constitute a first lien on the judgment awarding such damages.

Where the amount of damages, other than actual, is specified in the complaint or information, the corresponding filing fees shall be paid by the offended party upon the filing thereof in court.

Except as otherwise provided in these Rules, no filing fees shall be required for actual damages.

No counterclaim, cross-claim or third party complaint may be filed by the accused in the criminal case, but any

cause of action which could have been the subject thereof may be litigated in a separate civil action.

[77] See REV. PEN. CODE, Arts. 104 to 113:

Art. 104. What is Included in Civil Liability. — The civil liability established in Articles 100, 101, 102, and 103 of this Code includes:

1. Restitution;
2. Reparation of the damage caused;
3. Indemnification for consequential damages.

Art. 105. Restitution — How Made. — The restitution of the thing itself must be made whenever possible, with allowance for any deterioration, or diminution of value as determined by the court.

The thing itself shall be restored, even though it be found in the possession of a third person who has acquired it by lawful means, saving to the latter his action against the proper person, who may be liable to him.

This provision is not applicable in cases in which the thing has been acquired by the third person in the manner and under the requirements which, by law, bar an action for its recovery.

Art. 106. Reparation — How Made. — The court shall determine the amount of damage, taking into consideration the price of the thing, whenever possible, and its special sentimental value to the injured party, and reparation shall be made accordingly.

Art. 107. Indemnification — What is Included. — Indemnification for consequential damages shall include not only those caused the injured party, but also those suffered by his family or by a third person by reason of the crime.

Art. 108. Obligation to Make Restoration, Reparation for Damages, or Indemnification for Consequential Damages and Actions to Demand the Same — Upon Whom it Devolves. — The obligation to make restoration or reparation for damages and indemnification for consequential damages devolves upon the heirs of the person liable.

The action to demand restoration, reparation, and indemnification likewise descends to the heirs of the person injured.

Art. 109. Share of Each Person Civilly Liable. — If there are two or more persons civilly liable for a felony, the courts shall determine the amount for which each must respond.

Art. 110. Several and Subsidiary Liability of Principals, Accomplices, and Accessories of a Felony — Preference in Payment. — Notwithstanding the provisions of the next preceding article, the principals, accomplices, and accessories, each within their respective class, shall be liable severally (in solidum) among themselves for their quotas, and subsidiaries for those of the other persons liable.

The subsidiary liability shall be enforced, first against the property of the principals; next, against that of the accomplices, and, lastly, against that of the accessories.

Whenever the liability in solidum or the subsidiary liability has been enforced, the person by whom payment has been made shall have a right of action against the others for the amount of their respective shares.

Art. 111. Obligation to Make Restitution in Certain Cases. — Any person who has participated gratuitously in the proceeds of a felony shall be bound to make restitution in an amount equivalent to the extent of such participation.

Art. 112. Extinction of Civil Liability. — Civil liability established in Articles 100, 101, 102, and 103 of this Code shall be extinguished in the same manner as obligations, in accordance with the provisions of the Civil Law.

Art. 113. Obligation to Satisfy Civil Liability. — Except in case of extinction of his civil liability as provided in the next preceding article the offender shall continue to be obliged to satisfy the civil liability resulting from the crime committed by him, notwithstanding the fact that he has served his sentence consisting of deprivation of liberty or other rights, or has not been required to serve the same by reason of amnesty, pardon, commutation of sentence or any other reason.

[78] 391 Phil. 441 (2000) [Per J. Panganiban, Third Division].

[79] *Id.* at 448–449.

[80] 419 Phil. 13 (2001) [Per J. Pardo, First Division].

[81] *Id.* at 19.

[82] 458 Phil. 504 (2003) [Per J. Callejo, Sr., Second Division].

[83] *Id.* at 513–515.

[84] *Rollo*, pp. 190–191.

[85] *Id.* at 195.

[86] *Id.*

[87] See *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*, G.R. No. 225433, September 20, 2022 [Per J. Leonen, *En Banc*] at 20–22. This pinpoint citation refers to the copy of the Resolution uploaded to the Supreme Court website.

CONCURRING OPINION

GESMUNDO, C.J.:

I fully concur in the ponencia circulated by the esteemed Associate Justice Ricardo R. Rosario. I write to share my perspective on the issue of adjudging civil liability in a criminal action despite the acquittal of the accused.

The essential facts of the case are as follows: petitioner spouses Enrique Llonillo and Marites Llonillo (spouses Llonillo) entered into a sangla-tira venture with private complainant Pedro Joel Caspillo (Caspillo), under which Caspillo would lend spouses Llonillo a sum of money in exchange for entitlement, for a certain period of time, to the rents of one of the apartment units owned by spouses Llonillo. Consequently, the parties executed a Memorandum of Agreement (MOA) whereby spouses Llonillo acknowledged receipt of the amount of PHP 300,000.00 from Caspillo, to be paid on or before March 20, 2010. Trouble ensued, however, when Caspillo failed to collect the promised monthly rentals. After investigation, Caspillo discovered that spouses Llonillo entered into similar sangla-tira schemes involving the same apartment unit with other parties. It also turned out that the apartment units involved in the sangla-tira schemes were mortgaged to different banks. Thus, spouses Llonillo were charged with committing the crime of Estafa under Article 318 (Other Deceits) of the Revised Penal Code.[1]

On the issue of jurisdiction, the ponencia holds that the Metropolitan Trial Court had the authority to hear, try, and decide the case, despite the lack of proof that the assistant city prosecutor responsible for filing the Information was authorized by the chief city prosecutor of Makati City. This is in accordance with the doctrine in *Gomez v. People*[2] that the lack of prior written authority or approval from the provincial, city, or chief state prosecutor

constitutes a mere formal defect which may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea.[3]

On the merits, the ponencia acquits spouses Llonillo of the crime of Other Deceits. It found the element of "false or fraudulent act or pretense executed prior to or simultaneously with the commission of the fraud" missing because it was clear that spouses Llonillo did not suppress the fact that the apartment units were mortgaged when they entered into the agreement with Caspillo. Moreover, the fact that spouses Llonillo entered into other sangla-tira schemes involving the same apartment unit, after they had already entered into the agreement with Caspillo, cannot be considered as being "made prior to or simultaneously with the commission of the fraud." Thus, there can be no misrepresentation to speak of at the time of the execution of the MOA.[4]

Finally, the ponencia holds that spouses Llonillo should be adjudged civilly liable to Caspillo for their loan in the amount of PHP 300,000.00 (unpaid loan), despite their acquittal. The ponencia invokes the case of Padilla v. Court of Appeals[5] wherein the Court held that civil liability can be adjudged in the same criminal case where a judgment of acquittal is pronounced, presuming that the surviving civil liability is sourced from an obligation other than the criminal charge. The ponencia holds that civil liability from sources other than the delict may be adjudged in the same criminal action if the act or omission complained of in the criminal action is the same or is related to the act or omission giving rise to the civil liability. In this case, spouses Llonillo's liability for the unpaid loan related to the acts complained of in the criminal action was properly raised during trial, and was admitted by spouses Llonillo themselves.[6]

Lack of authority to file the Information; waivable defect

I agree with the esteemed ponente that the defect regarding the prosecutor's lack of authority does not affect the jurisdiction of the trial court. As held by the Court in Gomez, the authority of the prosecuting officer in filing the Information has nothing to do with the court's jurisdiction over the subject matter or over the parties in a case.[7] Indeed, it affects neither the nature and cause of the accusation against the accused, nor the validity of the arrest or the voluntariness of the appearance of the accused in court.[8] The lack of authority on the part of the handling prosecutor is a mere procedural defect which may be waived by the accused and which can be cured at any stage of the proceedings.[9] As jurisdiction is conferred upon courts by substantive law, it cannot be accorded to or taken away from an otherwise competent court for purely procedural reasons.[10]

As emphasized in Gomez, the authority of the handling prosecutor, specifically as it does not appear on the face of the Information, would not affect the trial court's power to hear and decide a case.[11] It is noteworthy that in Rule 117, Section 3(d) of the Rules of Court, which requires a handling prosecutor to obtain a prior written authority or approval from the provincial, city, or chief state prosecutor before filing an Information with the courts, may be waived by the accused through silence, acquiescence, or failure to raise such ground during arraignment or before entering a plea. Such deficiency, if there be any, is merely formal and can be cured at any stage of the proceedings in a criminal case.[12]

Acquittal of spouses Llonillo; lack of prior or simultaneous fraud

I likewise agree that spouses Llonillo should be acquitted as there was no fraud committed in connection with the mortgage of the apartment units.

The case of Gonzaludo v. People[13] is instructive of fraud, viz.:

Fraud in its general sense is deemed to comprise anything calculated to deceive, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust, or confidence justly reposed, resulting in damage to another, or by which an undue and unconscientious advantage is taken of another. It is a generic

term embracing all multifarious means which human ingenuity can device, and which are resorted to by one individual to secure an advantage over another by false suggestions or by suppression of truth and includes all surprise, trick, cunning, dissembling and any unfair way by which another is cheated. And deceit is the false representation of a matter of fact whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed which deceives or is intended to deceive another so that he shall act upon it to his legal injury. The false pretense or fraudulent act must be committed prior to or simultaneously with the commission of the fraud.[14]

Indeed, in the crime of estafa through the means of deceit, the deceit must have been committed prior to or simultaneously with the fraudulent act because such is the only way that said deceit could become the efficient cause or primary consideration which could have induced the offended party to part with their money or property.[15]

In this case, as properly held in the ponencia, at the time the parties entered into the subject contract, spouses Llonillo have not yet exerted any fraud prior to or simultaneously with the said execution of the contract. Notably, the additional sangla-tira schemes were not entered into until after the perfection of the agreement with Caspillo. The sangla-tira schemes only came about after the perfection of the agreement. Thus, there was no fraud committed prior to or simultaneously with the signing of the MOA.

Finding of civil liability arising from a separate but related act in the same criminal case

Finally, I agree that the Court can justly hold spouses Llonillo civilly liable for the unpaid loan, without the need of instituting a separate civil proceeding.

I.

The nature of the civil liability which can be adjudged in a criminal proceeding where the accused is acquitted

Admittedly, the liability of spouses Llonillo for the unpaid loan arises from the loan agreement between the parties, and not from the alleged criminal act of estafa complained of. Thus, it is necessary to address the question of whether the court may justly award damages for civil liability in a criminal proceeding when the civil liability is not predicated on the criminal act.

It is my position that the moment the accused is acquitted, there can be no more occasion to award civil liability *ex delicto*, or those arising from the crime. However, it is possible that civil liability can be awarded in the same criminal proceeding if it is based on a different source of obligation other than the crime itself, such as a contract, quasi-contract, or quasi-delict.

As discussed by Justice Alfredo Benjamin S. Caguioa and Justice Rodil V. Zalameda in their concurring opinions, the correct rule is expressed in the case of *De Leon, Jr. v. Roqson Industrial Sales, Inc.*[16] The said case holds that acquittal precludes the finding of civil liability *ex delicto*. [17] Thus, "if no crime is found to have been committed . . . civil liability *ex delicto* is not obtained, and any surviving civil liability to be proven by mere preponderance of evidence must be grounded on another source of the civil obligation to pay." [18]

Article 1157 of the Civil Code provides that obligations can arise from five different sources, namely: (1) law; (2) contracts; (3) quasi-contracts; (4) acts or omissions punished by law; and (5) quasi-delicts. In relation to obligations arising from the fourth source in the enumeration (acts or omissions punished by law), Article 1161 further provides that "[c]ivil obligations arising from criminal offenses shall be governed by the penal laws." [19] In turn, Article 100 of the Revised Penal Code states that "[e]very person criminally liable for a felony is also civilly liable." This civil liability arising from acts or omissions punished by law, and which is governed by Article 100 of the Revised Penal Code, is referred to as civil liability *ex delicto* or civil liability arising from the

criminal offense.

On the other hand, Article 29 of the Civil Code contains the rule on civil liability when the accused is acquitted in a criminal case, viz.:

Article 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been [proven] beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground.

In *De Leon, Jr.*, the Court explained:

Stated differently, in case of a criminal conviction, the basis of civil liability is the criminal liability itself. This is predicated on the rule provided for in Article 100 of the Revised Penal Code that every person liable for a felony is also civilly liable, which in turn rests on the premise that a crime has both the criminal as well as the civil aspect. On the other hand, in the event of an acquittal, there is no criminal liability to speak of, as well as no civil obligation arising from acts or omissions punished by law or delicts. With criminal absolution, Article 29 contemplates an "act or omission" from which liability may arise based on the other sources of obligations which are independent of the delict.[20] (Emphasis supplied)

Similarly, in *Padilla*, the Court held:

The extinction of the civil action by reason of acquittal in the criminal case refers exclusively to civil liability [ex delicto] founded on Article 100 of the Revised Penal Code. . . . In other words, the civil liability which is also extinguished upon acquittal of the accused is the civil liability arising from the act as a crime.[21] (Emphasis supplied)

To my mind, there can be no greater support to the proposition that acquittal precludes the finding of civil liability ex delicto than the basic principle of presumption of innocence. The accused in a criminal case is innocent of the crime charged until and unless their guilt is proven beyond reasonable doubt. If the accused is innocent, there can be no basis to adjudge them responsible for civil liability arising from the criminal offense.

In *Padilla*, and as reiterated in later cases, the Court described three situations wherein civil liability is not extinguished by acquittal. That is, civil liability is not extinguished by acquittal (1) where the acquittal is based on reasonable doubt; (2) where the court expressly declares that the liability of the accused is not criminal but only civil in nature; and (3) where the civil liability does not arise from or is not based upon the criminal act of which the accused was acquitted.[22] It is submitted that, in all of these situations, it should be presumed that the surviving civil liability is sourced from an obligation other than the criminal charge.

To stress, such an interpretation should apply even in the situation where the accused is acquitted based on reasonable doubt. In fact, the Court's judgment in cases where the accused was acquitted on this ground, but still held civilly liable, can be easily reconciled with this interpretation. The following cases support this legal truism:

In *Sapiera v. Court of Appeals*,[23] the petitioner was charged with estafa after she used checks, which were later dishonored, to pay for the purchase of grocery items. Said petitioner was acquitted due to insufficiency of evidence, but was adjudged civilly liable for the unpaid value of the checks.[24] In this case, it can be argued that the petitioner's liability for the unpaid value of the checks was based on contract.

In *Manantan v. Court of Appeals*,[25] the petitioner was acquitted on reasonable doubt of the charge of reckless

imprudence resulting in homicide. However, the Court held petitioner civilly liable, on account of the trial court's declaration that did not discount the possibility that "the accused was really negligent." [26] In said case, it would appear that the implication is that petitioner was civilly liable for his negligent act, i.e., for the commission of an act which qualified as a quasi-delict.

In *Lumantas v. Spouses Calapiz, Jr.*, [27] the petitioner was charged with reckless imprudence resulting in serious physical injuries after the operation he performed left a patient with a damaged urethra. The petitioner was acquitted based on insufficiency of evidence, but the Court held that "[t]he failure of the [p]rosecution to prove his criminal negligence with moral certainty did not forbid a finding against him that there was preponderant evidence of his negligence to hold him civilly liable." [28] Again, it can be argued that the petitioner's civil liability for negligence was based on the law on quasi-delicts.

Finally, in *Horca v. People*, [29] the petitioner was charged with theft when she failed to deliver airline tickets after accepting payment for the same. While she was acquitted on reasonable doubt, the Court held her civilly liable for the return of the amount paid to her. [30] It can be argued that the obligation to return the amount in said case was based on contract and the law on sales.

It bears emphasis that there is a difference between the "act or omission complained of" and the "legal source of the obligation." A single act or omission can give rise to civil liability premised on a legal provision, a contractual or quasi-contractual obligation, a tort, and/or the commission of a criminal offense. The civil liability which can be adjudged in criminal proceedings must be related to the same act or omission complained of in the criminal charge, but it need not be legally sourced from the commission of the criminal offense.

To reiterate, when the accused is acquitted, there can be no more basis to impose civil liability *ex delicto*. The civil liability of the accused must be based on a different source of obligation. Consequently, the Court can either allow the imposition of civil liability based on other sources of obligation, or else accept that, whenever the accused is acquitted, civil liability can only be litigated in a separate civil case. As will be discussed further, the latter option would result in needlessly extending litigation and causing serious inconvenience to both the parties and the courts to fix a liability which, in many cases, has already been sufficiently determined in the earlier criminal proceeding. In contrast, allowing the imposition of civil liability in the same criminal proceeding would promote a more expeditious resolution of disputes.

Thus, it is submitted that, when the civil liability of the accused arising from a source of obligation other than the crime, such as a law, contract, quasi-contract or quasi-delict, has already been established by a preponderance of evidence, it can be imposed in the same criminal proceeding.

II.

Compliance with the requirements of procedural due process

The adjudgment in a criminal proceeding of civil liability not arising from the crime raises a concern over the due process rights of the parties involved. Nevertheless, it is submitted that civil liability can be adjudged in a criminal case, regardless of the legal source of the obligation, while still complying with the requirements of due process.

Jurisprudence holds that the requirements of procedural due process in judicial proceedings are: (1) there must be a court or tribunal clothed with judicial power to hear and determine the matter before it; (2) jurisdiction must be lawfully acquired over the person of the defendant or over the property which is the subject of the proceeding; (3) the defendant must be given an opportunity to be heard; and (4) judgment must be rendered upon lawful hearing. [31]

Fundamentally, the essence of procedural due process lies in the opportunity to be heard. Thus, in *Vivo v. Philippine Amusement and Gaming Corporation*,^[32] the Court explained:

The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard. . . . "To be heard" does not mean only verbal arguments in court; one may be heard also [through] pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.^[33] (Emphasis supplied)

Moreover, the Court held in *Philippine Commercial International Bank v. Court of Appeals*:^[34]

In the case of *Development Bank of the Philippines v. Court of Appeals*, [W]e ruled that the essence of due process is that a party be afforded a reasonable opportunity to be heard in support of defense. What the law abhors and prohibits is the absolute absence of opportunity to be heard. Hence, a party cannot feign denial of due process when [they] had been afforded the opportunity to present [their] side. In *Bernardo v. Court of Appeals*, [W]e ruled that lack of opportunity to be heard not necessarily absence of prior notice constitutes a violation of due process. As long as a party is given the opportunity to be heard either through oral arguments or through pleadings, such as a motion for reconsideration, and defend [their] interest in due course, [they] would have no reason to complain for it is this opportunity to be heard that makes up the essence of procedural due process.^[35] (Emphasis supplied, citations omitted)

Verily, it is submitted that compliance with procedural due process is more a question of fact than a matter of characterizing the legal source of the obligation. That is, due process is complied with where the circumstances show that the parties in a criminal proceeding were given a real opportunity to be heard as to the existence or nonexistence of civil liability related to the same act or omission resulting in the criminal charge. This is true regardless of the nature or source of the civil liability involved.

In this case, spouses Llonillo were accorded due process with regard to their liability for the unpaid loan. The unpaid loan is closely connected with the estafa charge and with the facts and issues discussed during trial. Spouses Llonillo's liability for the unpaid loan was sufficiently raised and threshed out in the proceedings before the trial court. In fact, the amount of the loan was awarded as actual damages in the trial court's Decision, from which spouses Llonillo appealed.^[36] Spouses Llonillo were undoubtedly informed of the issue as to their liability for the loan and had every opportunity to be heard on the matter.

III.

Establishing the civil liability of the accused in criminal proceedings

To my mind, the Court should hold spouses Llonillo civilly liable for the unpaid loan in this criminal case because their liability for the said loan, which arises from a contractual obligation, has already been clearly established by a preponderance of evidence.

While the loan agreement between the parties is technically a separate act from their sangla-tira agreement, I believe that these two acts are intimately connected, hence, the civil liability arising from a contract, particularly, from the loan agreement, may be adjudged in the same case. Notably, it was the unpaid loan which constituted the element of "damage" in the charge of estafa.^[37]

To emphasize, the factual circumstances surrounding the unpaid loan arising from the contract were fully threshed out in the course of the estafa proceedings before the trial court. The fact of the loan was included as a detail in the Information.^[38] The MOA which contained the agreement of the parties with respect to the unpaid loan was presumably submitted into evidence. Necessarily, the question as to the existence or nonexistence of the unpaid loan was an integral part of the case. The parties, including spouses Llonillo, were given an opportunity to

controvert the loan agreement and their nonpayment thereof, which constitutes their civil liability arising from the contract, in the same criminal case for estafa.

More importantly, spouses Llonillo themselves admitted to the loan in the course of trial.[39] The settled rule is that an admission made by a party in the course of the proceedings in a case removes the admitted fact from the field of controversy.[40] The admission is considered conclusive and binding evidence as to the party who made the same.[41]

Thus, the evidence necessary to allow the Court to rule upon the civil liability of spouses Llonillo arising from the contract for the unpaid loan has been presented in the proceedings of the criminal case. Despite their acquittal, the said contractual civil liability was established by preponderance of evidence. Moreover, the evidence is clear that spouses Llonillo are liable for the amount of the unpaid loan.

Should the Court require Caspillo to institute a separate civil case in order to enforce the liability of spouses Llonillo for the unpaid loan, the result would be nothing but a redundancy in the presentation of evidence. That is, the parties would be forced to litigate anew, in proceedings that would likely last for years, in order to submit the same evidence and establish the same facts which have already been admitted and/or established in the instant case. Such a situation would not be fair to either of the parties involved here.

To stress, the question of whether the Court should require the institution of separate civil proceedings is a matter of procedure. Thus, the Court should keep in mind the objective of procedural rules to "provide a simplified and inexpensive procedure for the speedy disposition of cases." [42] In connection with this objective, the Court has previously said that a situation resulting in the multiplicity of suits is "a situation obnoxious to the orderly administration of justice." [43]

Conformably, it is opined that, in criminal proceedings resulting in acquittal, the civil liability of the accused, arising from a different source of obligation, which is related to the same act or omission resulting in the criminal charge, can still be adjudged in the same case, for as long as the obligation of the accused to fulfill the said civil liability is established during trial by a preponderance of evidence. To require a separate civil action in such cases would be unnecessarily costly and time-consuming for both the parties and the courts, and would only serve to delay the full and final resolution of the dispute between the parties. On the other hand, the championed approach simplifies proceedings, avoids the multiplicity of suits, saves unnecessary expenses, and promotes the full, just, and speedy resolution of disputes between parties.

Conclusion

Thus, in criminal proceedings where the accused is acquitted, courts can still render judgment on the civil liability of the accused related to the same act or omission resulting in the criminal charge when the said liability has been established by a preponderance of evidence. This is true regardless of the legal source of the civil obligation, provided that the requirements of due process are complied with.

These conditions are present in the instant case. Because the unpaid loan is closely connected to the estafa charge against spouses Llonillo and to the act which gave rise to the charge of estafa, the circumstances surrounding the unpaid loan were fully threshed out in the course of the proceedings before the trial court. The evidence, which necessarily allowed the Court to rule upon the liability of spouses Llonillo for the unpaid loan, has been presented and considered. Moreover, spouses Llonillo themselves clearly admitted the loan. Finally, they had every opportunity during trial and on appeal to be heard on the matter of their liability for the unpaid loan.

In fine, in criminal proceedings where the accused is acquitted, but the civil liability of the accused for the same act or omission which gave rise to the criminal charge is nevertheless established by a preponderance of evidence,

the courts should still rule on the civil liability of the accused, even if it arises from a different source of obligation. It must be emphasized that proceedings should be simplified, unnecessary expenses avoided, and the full, just, and speedy resolution of disputes promoted. For as long as there is no conflict with substantive law and the requirements of due process are complied with, then there must be a decision on the civil liability of the accused.

ACCORDINGLY, I CONCUR in the ponencia's ruling to GRANT the Petition, and ACQUIT petitioner spouses Enrique Llonillo and Marites Llonillo of the crime of Other Deceits under the first paragraph of Article 318 of the Revised Penal Code, but adjudge them liable to pay private complainant Pedro Joel Caspillo the full loaned amount of PHP 300,000.00, with interest.

[1] Ponencia, pp. 2–3.

[2] 889 Phil. 915 (2020) [Per J. Gesmundo, En Banc].

[3] Ponencia, pp. 9–10.

[4] Id. at 11–13.

[5] 214 Phil. 492 (1984) [Per J. Gutierrez, Jr., En Banc].

[6] Ponencia, pp. 15–22.

[7] Gomez v. People, 889 Phil. 915, 982 (2020) [Per J. Gesmundo, En Banc].

[8] Id. at 954.

[9] Id. at 984.

[10] Id. at 980.

[11] Id. at 983–984.

[12] Id.

[13] 517 Phil. 110 (2006) [Per J. Garcia, Second Division].

[14] Id. at 120, citing Alcantara v. Court of Appeals, 462 Phil. 72, 89 (2003) [Per J. Callejo, Second Division], citing further People v. Balasa, 356 Phil. 362, 382–383 (1998) [Per J. Romero, Third Division].

[15] Gonzaludo v. People, id. at 119.

[16] G.R. No. 234329, November 23, 2021 [Per J. Caguioa, First Division].

[17] Id. at 9. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[18] Id. at 7. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[19] Subject to the provisions of Article 2177, and of the pertinent provisions of Chapter 2, Preliminary Title, on Human Relations, and of Title XVIII of Book IV, regulating damages. (CIVIL CODE, art. 1161)

[20] De Leon, Jr. v. Roqson Industrial Sales, Inc., G.R. No. 234329, November 23, 2021 [Per J. Caguioa, First Division] at 10. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[21] Padilla v. Court of Appeals, 214 Phil. 492, 499 (1984) [Per J. Gutierrez, Jr., En Banc].

- [22] Id. at 500–501.
- [23] 373 Phil. 148 (1999) [Per J. Bellosillo, Second Division].
- [24] Id. at 156.
- [25] 403 Phil. 298 (2001) [Per J. Quisumbing, Second Division].
- [26] Id. at 310.
- [27] 724 Phil. 248 (2014) [Per J. Bersamin, First Division].
- [28] Id. at 254.
- [29] G.R. No. 224316, November 10, 2021 [Per J. Hernando, Second Division].
- [30] Id. at 11. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
- [31] *El Banco Español-Filipino v. Palanca*, 37 Phil. 921, 934 (1918) [Per J. Street, En Banc].
- [32] 721 Phil. 34 (2013) [Per J. Bersamin, En Banc].
- [33] Id. at 43.
- [34] 454 Phil. 338 (2003) [Per J. Callejo, Sr., Second Division].
- [35] Id. at 359.
- [36] Ponencia, pp. 5–6.
- [37] Id. at 13.
- [38] Id. at 2.
- [39] Id. at 4.
- [40] RULES OF COURT, Rule 129, sec. 4; *Agbayani v. Lupa Realty Holding Corp.*, 853 Phil. 49, 67 (2019) [Per J. Caguioa, Second Division].
- [41] *Agbayani v. Lupa Realty Holding Corp.*, id.
- [42] CONST., art. VIII, sec. 5.
- [43] *Republic v. Central Surety & Insurance Co.*, 134 Phil. 631, 639 (1968) [Per J. Castro, En Banc].

CONCURRING OPINION

CAGUIOA, J.:

I concur in the acquittal of petitioners Enrique Llonillo and Marites Llonillo (collectively, petitioners-spouses) from the charge of estafa (Other Deceits), penalized under the first paragraph of Article 318 of the Revised Penal Code.

I offer my thoughts, however, as to their civil liability despite their acquittal.

Brief review of the facts

The facts surrounding this case are simple. Petitioners-spouses entered into a "sangla-tira" arrangement with the

complainant, Pedro Joel V. Caspillo (Caspillo). Petitioners-spouses do not dispute that they entered into the arrangement with Caspillo, and that as a result of it, they had received PHP 300,000.00 from him. The "sangla-tira" arrangement involved Caspillo lending petitioners-spouses the aforementioned amount of money, and in consideration thereof, Caspillo would be entitled to the rents of an apartment unit—owned by petitioners-spouses—as interest. The value of the rent was PHP 10,000.00 per month, and Caspillo would be entitled to the same for the duration of the period agreed upon. At the end of the said period, the full amount of the loan is due to be paid as well.

Caspillo, however, eventually failed to collect monthly rentals from the occupants of the apartment unit. Upon a supposed investigation, Caspillo "discovered" that petitioners-spouses entered into similar "sangla-tira" arrangements with others. In addition, Caspillo supposedly learned that the apartment unit was mortgaged to different banks allegedly contrary to the representations of petitioners-spouses during their negotiations. Because of said alleged misrepresentations, Caspillo filed the complaint that eventually resulted in the filing of this criminal case in court.

Petitioners-spouses, as previously mentioned, do not dispute receiving PHP 300,000.00 from Caspillo, or entering into the "sangla-tira" arrangement with him. In their defense, they only denied that they made representations that their property was free from liens and encumbrances. They also claimed that another person, their agent Grace Pangan (Grace), negotiated with Caspillo on their behalf.

The Metropolitan Trial Court (MeTC) where this case was originally filed found petitioners-spouses guilty of the charge. Apart from imposing the penalties of imprisonment and fine, the MeTC also ordered petitioners-spouses to pay Caspillo the amount of PHP 300,000.00 as actual damages. The case was then appealed to the Regional Trial Court (RTC), which affirmed the ruling of the MeTC. Undeterred, petitioners-spouses appealed to the Court of Appeals (CA), but the latter likewise affirmed the conviction. Petitioners-spouses thus filed the present petition to once again assert their innocence.

The ponencia acquits petitioners-spouses. The ponencia quotes portions of Caspillo's testimony in court, wherein he basically admitted that he had seen the copies of the certificates of title covering the apartment unit during negotiations. In essence, the ponencia acquits petitioners-spouses because there could be no fraud or misrepresentation amounting to estafa in this case since, contrary to his initial claims, Caspillo knew that the apartment unit was mortgaged to financial institutions at the time he entered into the "sangla-tira" arrangement. The similar "sangla-tira" arrangements could also not be the basis for the conviction as they were entered into after the one with Caspillo had already been perfected.

I agree with the ponencia's pronouncements regarding the criminal liability of petitioners-spouses. Indeed, there could be no estafa in this case as the prosecution clearly failed to establish the crucial element of fraud, misrepresentation, or deceit. I write this Opinion, however, to expound on the matter of finding civil liability on the part of the petitioners-spouses.

As observed by the ponencia, I agree that courts can still adjudge civil liability in criminal cases that result in an acquittal if the said civil liability arises from other sources of obligation.

Article 29 of the Civil Code allows courts to adjudge civil liability in criminal cases that result in an acquittal even though the remaining civil liability arises from other sources of obligations

Article 1157 of the Civil Code enumerates the different sources of obligations, namely: (1) law, (2) contracts, (3) quasi-contracts, (4) acts or omissions punished by law, and (5) quasi-delicts. All obligations trace their existence from any of these five sources.[1]

For civil obligations arising from criminal offenses (ex delicto), Article 1161 of the Civil Code provides that it shall be "governed by the penal laws, subject to the provisions of Article 2177, and of the pertinent provisions of Chapter 2, Preliminary Title on Human Relations, and of Title XVIII of this Book, regulating damages." [2] In this connection, Article 100 of the Revised Penal Code provides that every person criminally liable for a felony is also civilly liable. This is supplemented by Article 2202 of the Civil Code, which provides that "[i]n crimes and quasi-delicts, the defendant shall be liable for all damages which are the natural and probable consequences of the act or omission complained of. It is not necessary that such damages have been foreseen or could have reasonably been foreseen by the defendant."

The implication of both Article 100 of the Revised Penal Code and Article 2202 of the Civil Code is that the existence of criminal liability is a necessary prerequisite before civil liability ex delicto may be said to exist. In other words:

if no crime is found to have been committed... civil liability ex delicto is not obtained, and any surviving civil liability to be proven by mere preponderance of evidence must be grounded on another source of the civil obligation to pay, i.e., an underlying source of obligation by virtue of which [the accused], though acquitted of the criminal charge, remains civilly liable therefor. [3]

In other words, if any civil liability were to survive an acquittal, such liability would have to be anchored on the other sources of obligation, namely law, contract, quasi-contract, or quasi-delict.

In this connection, Article 29 of the Civil Code provides that "[w]hen the accused in a criminal prosecution is acquitted on the ground that his [or her] guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted." [4] At first blush, it may appear that a new civil action has to be instituted in order to enforce the civil liability that survived the acquittal based on reasonable doubt. However, as early as 1984, in *Padilla v. Court of Appeals* [5] (*Padilla*), the Court En Banc already ruled that Article 29 allows courts to adjudge civil liability in the same criminal case where the judgment of acquittal was pronounced. *Padilla* involved a criminal case for grave coercion against the numerous accused who carried out the order of the mayor to evict the complainants from the market stall which they used to lease. While the several accused were initially convicted by the trial court, they were eventually acquitted by the CA based on reasonable doubt. Thus, the only pending issue when it reached the Court was whether the accused's civil liability was deemed extinguished by their acquittal. The Court held in the negative, and even ruled that there was no need for a separate proceeding to enforce the surviving civil liability. The Court, in *Padilla*, explained:

There appear to be no sound reasons to require a separate civil action to still be filed considering that the facts to be proved in the civil case have already been established in the criminal proceedings where the accused was acquitted. Due process has been accorded the accused. He was, in fact, exonerated of the criminal charge. The constitutional presumption of innocence called for more vigilant efforts on the part of prosecuting attorneys and defense counsel, a keener awareness by all witnesses of the serious implications of perjury, and a more studied consideration by the judge of the entire records and of applicable statutes and precedents. To require a separate civil action simply because the accused was acquitted would mean needless clogging of court dockets and unnecessary duplication of litigation with all its attendant loss of time, effort, and money on the part of all concerned.

. . . .

The only supposed obstacle is the provision of Article 29 of the Civil Code, earlier cited, that "when the accused in a criminal prosecution is acquitted on the ground that his [or her] guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted." According to some scholars, this provision of substantive law calls for a separate civil action and cannot be modified by a

rule of remedial law even in the interests of economy and simplicity and following the dictates of logic and common sense.

....

We see no need to amend Article 29 of the Civil Code in order to allow a court to grant damages despite a judgment of acquittal based on reasonable doubt. What Article 29 clearly and expressly provides is a remedy for the plaintiff in case the defendant has been acquitted in a criminal prosecution on the ground that his guilt has not been proved beyond reasonable doubt. It merely emphasizes that a civil action for damages is not precluded by an acquittal for the same criminal act or omission. The Civil Code provision does not state that the remedy can be availed of only in a separate civil action. A separate civil case may be filed but there is no statement that such separate filing is the only and exclusive permissible mode of recovering damages.

There is nothing contrary to the Civil Code provision in the rendition of a judgment of acquittal and a judgment awarding damages in the same criminal action. The two can stand side by side. A judgment of acquittal operates to extinguish the criminal liability. It does not, however, extinguish the civil liability unless there is clear showing that the act from which civil liability might arise did not exist.

A different conclusion would be attributing to the Civil Code a trivial requirement, a provision which imposes an uncalled for burden before one who has already been the victim of a condemnable, yet non-criminal, act may be accorded the justice which he [or she] seeks.

We further note the rationale behind Art. 29 of the Civil Code in arriving at the intent of the legislator[s] that they could not possibly have intended to make it more difficult for the aggrieved party to recover just compensation by making a separate civil action mandatory and exclusive:

The old rule that the acquittal of the accused in a criminal case also releases him [or her] from civil liability is one of the most serious flaws in the Philippine legal system. It has given rise to numberless instances of miscarriage of justice, where the acquittal was due to a reasonable doubt in the mind of the court as to the guilt of the accused. The reasoning followed is that inasmuch as the civil responsibility is derived from the criminal offense, when the latter is not proved, civil liability cannot be demanded.

This is one of those cases where confused thinking leads to unfortunate and deplorable consequences. Such reasoning fails to draw a clear line of demarcation between criminal liability and civil responsibility, and to determine the logical result of the distinction. The two liabilities are separate and distinct from each other. One affects the social order and the other, private rights. One is for the punishment or correction of the offender while the other is for reparation of damages suffered by the aggrieved party. . . . It is just and proper that, for the purposes of the imprisonment of or fine upon the accused, the offense should be proved beyond reasonable doubt. But for the purpose of indemnifying the complaining party, why should the offense also be proved beyond reasonable doubt? Is not the invasion or violation of every private right to be proved only by preponderance of evidence? Is the right of the aggrieved person any less private because the wrongful act is also punishable by the criminal law? (Code Commission, pp. 45-46).

A separate civil action may be warranted where additional facts have to be established or more evidence must be adduced or where the criminal case has been fully terminated and a separate complaint would be just as efficacious or even more expedient than a timely remand to the trial court where the criminal action was decided for further hearings on the civil aspects of the case. The offended party may, of course, choose to file a separate action. These do not exist in this case. Considering moreover the delays suffered by the case in the trial, appellate, and review stages, it would be unjust to the complainants in this case to require at this time a separate civil action to be filed.[6] (Emphasis supplied)

To my mind, the Court's reasoning in Padilla remains true even though technically, the civil liability to be adjudged arises from a different source of obligation. Verily, to require the aggrieved party to file another case, go

through the rigors of trial, and relitigate his or her case anew just to vindicate his or her rights would be to make justice even less accessible. It will further tilt the scales of justice away from those who have already been aggrieved or victimized through an act that did not merit a criminal punishment, but was nevertheless proven to have happened or existed.

I understand that this position is not in line with our procedural rules. The rules of procedure promulgated by the Court are clear that the civil case deemed instituted when a criminal case is filed is limited only to the enforcement of civil liability *ex delicto*. Thus, the rulings of the ponencia and the cases it cites like *Dy v. People*[7] (*Dy*) and *Wong v. Wong*[8] are perfectly understandable. However, the rules of procedure promulgated by the Court are meant to "provide a simplified and inexpensive procedure for the speedy disposition of cases." [9] Therefore, if faced with a dilemma of upholding the letter of the rules of procedure, on the one hand, *vis-à-vis* interpreting it in a way that fulfills its purpose, I have no doubt in my mind that it is the latter—the one in accord with the Constitutional design of the rules—that the Court should uphold. This is, of course, limited only to the instances when doing so would not be violative of the accused's due process rights.

This idea of awarding civil liability in the criminal case that resulted in acquittal even though the remaining civil liability is anchored on a different source of obligation is not novel. For instance, in the cases of *Sapiera v. Court of Appeals*, [10] *Eusebio-Calderon v. People*, [11] *Rimando v. Spouses Aldaba*, [12] and *De Leon, Jr. v. Roqson Industrial Sales, Inc.*, [13] the Court adjudged civil liability against an accused acquitted of *estafa*, and anchored the liability adjudged on the underlying transaction, the amounts of the checks that were dishonored, as well as the provisions of the Negotiable Instruments Law. In *Tupaz IV v. Court of Appeals* [14] which involved a criminal case for violation of the Trust Receipts Law, the Court still held the acquitted accused to be civilly liable even as it itself recognized that "his liability arose not from the criminal act of which he was acquitted (*ex delicto*) but from the trust receipt contract (*ex contractu*) of 30 September 1981." [15]

In *Chiok v. People*, [16] the Court, speaking through the same ponente as the case of *Dy* above (i.e., Justice Jardeleza), held that the accused, although acquitted in the criminal case for *estafa* through misappropriation of property, would still be civilly liable because "the monetary transaction between [the parties] was proven by preponderance of evidence." [17] The same conclusion was reached in the similar case of *Gamaro v. People*. [18]

Finally, in the relatively recent case of *Horca v. People* [19] (*Horca*) which involved a contract to purchase airline tickets that did not come into fruition, the Court acquitted the accused from the charge of theft but nevertheless held her civilly liable. The Court, in *Horca*, explained:

Conformably with the foregoing, the civil aspect of the criminal case can survive an acquittal when it is based on reasonable doubt. In this scenario, even though the evidence presented does not establish the fact of the crime with moral certainty, the civil action can still prevail as long as preponderant evidence tilts in favor of a finding of liability. "This means that while the mind of the court cannot rest easy in penalizing the accused for the commission of a crime, it nevertheless finds that he or she committed or omitted to perform acts which serve as a separate source of obligation. There is no sufficient proof that the act or omission is criminal beyond reasonable doubt, but there is a preponderance of evidence to show that the act or omission caused injury which demands compensation."

As applied in this case, there is reason for this Court to believe that *Horca* should be held civilly liable to the Sisters of Providence. The fact remains that Sister Reynolds and her congregation was prejudiced when they paid for the tickets but did not get reimbursed when the flight was cancelled. This is also supported by *Horca*'s own acts when she acknowledged the need to return the money and when she actually paid Sister Reynolds the amount of [PHP] 90,000.00 to partially cover for the airline tickets. To the Court, this essentially amounts to an admission of her liability to return the said amount. Concomitantly, while this Court acquits petitioner because reasonable doubt exists anent her guilt, We adjudge *Horca* to be civilly accountable considering that

preponderant evidence exists to establish her liability.[20] (Emphasis supplied)

All of these cases show situations where the Court deemed it more economical to rule on the civil liability of the accused even though it arises from a different source of obligation (i.e., not *ex delicto*). If there are no longer any disputed facts as to the underlying transaction and the remaining liability, I respectfully see no reason why the courts should refuse to adjudge civil liability. To quote Padilla anew:

Due process has been accorded the accused. He was, in fact, exonerated of the criminal charge. The constitutional presumption of innocence called for more vigilant efforts on the part of prosecuting attorneys and defense counsel, a keener awareness by all witnesses of the serious implications of perjury, and a more studied consideration by the judge of the entire records and of applicable statutes and precedents. To require a separate civil action simply because the accused was acquitted would mean needless clogging of court dockets and unnecessary duplication of litigation with all its attendant loss of time, effort, and money on the part of all concerned.[21] (Emphasis supplied)

All told, while the ponencia is correct that the civil liability remaining in this case is *ex contractu*, it does not mean that the Court should refuse to adjudge civil liability if there are no longer any pending issues of fact as to the underlying transaction and the amounts to be paid. From the perspective of the Court, there is no impediment for the exercise of its powers, and from the perspective of the parties, their due process rights have been respected. Simply put, I submit that the rule should be the following: if the facts necessary to sustain the accused's civil liability arising from other sources of obligation were established in the criminal proceedings where the accused was acquitted and the accused accorded due process with respect to his or her defenses in respect of that source of obligation, then the court concerned, in the interest of judicial economy, can and should adjudge civil liability against said accused.

Applying the foregoing to this case, since petitioners-spouses admitted to receiving PHP 300,000.00 from Caspillo and entering into a "sangla-tira" arrangement with him, then the Court can adjudge civil liability in this case despite their acquittal from the estafa charge, especially if the records are complete and the assertions of alleged payments are bare and unsubstantiated.

[1] See *Sagrada Orden de Predicadores del Santisimo Rosario de Filipinas v. National Coconut Corp.*, 91 Phil. 503 (1952) [Per J. Labrador, En Banc; Concurring: C.J. Paras, J. Pablo, J. Bengzon, J. Padilla, J. Tuazon, J. Montemayor, and J. Bautista].

[2] Emphasis supplied.

[3] *De Leon, Jr. v. Roqson Industrial Sales, Inc.*, G.R. No. 234329, November 23, 2021, [Per J. Caguioa, First Division; Concurring: C.J. Gesmundo, J. Hernando (additional Member per Raffle dated October 6, 2021 in lieu of J. J. Lopez), and J. Lazaro-Javier; J. M. Lopez on wellness leave], available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68086>.

[4] Emphasis supplied.

[5] *Padilla v. Court of Appeals*, 214 Phil. 492 (1984) [Per J. Gutierrez, Jr., En Banc; Concurring: C.J. Teehankee, J. Makasiar, J. Guererro, J. Abad Santos, J. Melencio-Herrera, J. Plana, J. Escolin, J. Relova, and J. Dela Fuente; J. Aquino concurs in the result; J. Concepcion, Jr. on leave; J. De Castro, no part.

[6] *Id.* at 502–506.

[7] 792 Phil. 672 (2016). [Per J. Jardeleza, Third Division; Concurring: J. Velasco, Jr., J. Peralta, J. Perez, and J.

Reyes].

[8] G.R. No. 237159, September 29, 2021 [Per J. Inting, Second Division; Concurring: J. Perlas-Bernabe, J. Hernando, J. Gaerlan, and J. Dimaampao], available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67954>.

[9] CONST., art. VIII, sec. 5(5). Emphasis supplied.

[10] 373 Phil. 148 (1999) [Per J. Bellosillo, Second Division; Concurring: J. Mendoza, J. Quisumbing, and J. Buena].

[11] 484 Phil. 87 (2004) [Per J. Ynares-Santiago, First Division; Concurring: C.J. Davide, J. Quisumbing, and J. Carpio; J. Azcuna on leave].

[12] 745 Phil. 358 (2014). [Per J. Perlas-Bernabe, First Division; Concurring: C.J. Sereno, J. Leonardo-de Castro, J. Bersamin, and J. Perez].

[13] Supra note 3.

[14] 512 Phil. 47 (2005). [Per J. Carpio, First Division; Concurring: C.J. Davide, J. Quisumbing, J. Ynares-Santiago, and J. Azcuna].

[15] Id. at 64.

[16] 774 Phil. 230 (2017) [Per J. Jardeleza, Third Division; Concurring: C.J. Sereno, J. Velasco, Jr., J. Villarama, Jr., and J. Reyes].

[17] Id. at 256.

[18] 806 Phil. 483 (2017) [Per J. Peralta, Second Division; Concurring: J. Carpio, J. Bersamin (Designated additional Member in lieu of J. Jardeleza, per Raffle dated September 1, 2014), and J. Mendoza; J. Leonen on official leave].

[19] G.R. No. 224316, November 10, 2021 [Per J. Hernando, Second Division; Concurring: J. Inting, J. Zalameda (Designated additional Member per October 31, 2021 Raffle vice J. Dimaampao who had prior participation in the CA proceedings.), J.M. Lopez (Designated additional Member per Raffle dated September 22, 2021. SAJ Estela M. Perlas-Bernabe took no part as her former staff is counsel for petitioner), and J. Gaerlan], available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67900>.

[20] Id.

[21] Padilla v. Court of Appeals, supra note 5, at 502.

CONCURRING OPINION

HERNANDO, J.:

I concur with the ponencia of Associate Justice Ricardo R. Rosario in its acquittal of Spouses Enrique Llonillo and Marites Llonillo (Sps. Llonillo) of the charge of Other Deceits punished under Article 318 of the Revised Penal Code (RPC)[1] due to the prosecution's failure to prove all the elements thereof.

In addition, I likewise concur with the ponencia in finding that Sps. Llonillo are merely civilly liable based on contract, and in ruling that such civil liability may already be adjudged and awarded to private complainant Pedro

Joel Caspillo (Caspillo) in the present case, without a need for a remand to the lower court.

The relevant antecedents

At bar is a Petition for Review on Certiorari assailing the Decision and Resolution of the Court of Appeals (CA) in CA G.R. CR. No. 38855 which affirmed the Regional Trial Court's (RTC) Decision sustaining the Metropolitan Trial Court's (MeTC) conviction of Sps. Llonillo of the charge of Other Deceits.

On December 17, 2012, Sps. Llonillo were charged with Other Deceits in an Information that reads:

On the 30th day of March 2009, in the city of Makati, Philippines, accused(,) conspiring and confederating together and both of them mutually helping and aiding one another, did then and there wi[l]fully, unlawfully and feloniously defraud complainant Pedro Joel V. Caspillo in the following manner; accused by means of false manifestation and fraudulent representations they made to complainant to the effect that Unit H[,] at No. 236 Aguho St., was free from any encumbrances whatsoever and that by way of interest for loan extended, complainant is entitled to collect the rental directly from the occupants of the said unit, which representation they know for a fact to be false considering that the unit is already encumbered in violation of the Deed of Mortgage they executed and that the rental cannot be collected as the occupant has previously entered into a similar agreement with accused and there appears to be no other reason but only to convince the complainant to part with his [PHP] 300,000.00 and in fact complainant delivered the amount to the accused, to his damage and prejudice.

CONTRARY TO LAW.

Version of the Prosecution

In March 2009, Sps. Llonillo were looking for individuals who could lend them money for a fixed period. For this purpose, Grace Pangan (Grace), their agent, offered a sangla-tira agreement to Caspillo. The subject properties are apartment units situated in two buildings located at 236 Aguho Street, Barangay Comembo, Makati City. As agreed upon, the consideration is the lender's right to receive the rents of the apartment units as interest for the loan valued at PHP 10,000.00 per month.

Sps. Llonillo assured Caspillo that the subject properties have no prior liens or encumbrances. Thus, on March 30, 2009, Caspillo accepted the offer and lent PHP 300,000.00 to them. On even date, they executed a Memorandum of Agreement (MOA) over apartment unit H which was unoccupied at that time. Sps. Llonillo likewise acknowledged receipt of the amount of PHP 300,000.00 therein, payable on or before March 20, 2010. However, it did not contain a stipulation regarding Caspillo's right to receive the PHP 10,000.00 monthly rental as interest.

Initially, Caspillo himself occupied the apartment. After 10 days, he vacated the same and leased it to a friend for one month. Thereafter, he established a mini store thereon which turned out to be unprofitable. Hence, Marites Llonillo offered to find a lessee for the apartment so that Caspillo may receive the PHP 10,000.00 monthly rental but to no avail.

Caspillo then discovered that Sps. Llonillo also executed a sangla-tira agreement over apartment unit H with Germalyn Josol (Josol) and Rodrigo Arevalo, Jr. (Arevalo). Upon verification with the Registry of Deeds of Makati City, Caspillo learned that the subject properties offered for the sangla-tira agreement were already mortgaged to different banks contrary to Sps. Llonillo's initial representations.

Version of the Defense

Marites Llonillo averred that she inherited the land located at 236 Aguho St., Brgy. Comembo, Makati City from her mother. To fund the construction of apartment units thereon, she mortgaged the real estate to different

financial institutions and private individuals. To this end, their agent (Grace) proposed a sangla-tira agreement wherein she would look for lenders who would occupy the apartment units and receive the rentals thereof as interest. Thereafter, it was only Grace who met and negotiated with Caspillo.

For his part, Enrique Llonillo contended that he and his wife never misrepresented that the subject properties are free from liens and encumbrances, and that the subject transaction is a mere loan.

Rulings of the Lower Courts

The MeTC convicted Sps. Llonillo of Other Deceits in a December 9, 2015 Decision, the fallo of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused, ENRIQUE P. LLONILLO and MARITES LLONILLO Y BITENG, guilty of the crime of Other Deceits defined and penalized under Art. 318, 1st par[.], of the Revised Penal Code and the said accused are hereby sentenced [sic] to suffer six (6) months imprisonment and to a fine of Three hundred Thousand Pesos ([PHP] 300,000.00) with subsidiary imprisonment in case of failure to pay within fifteen days from notice.

Accused are ordered to pay complainant in the amount of Three Hundred Thousand Pesos ([PHP] 300,000.00) as actual damages plus 6% interest per annum from April 10, 2013 until the debt shall have been paid in full and the amount of [PHP] 300,000.00 as and by way of attorney's fees.

SO ORDERED.

On appeal, the RTC affirmed the foregoing ruling in toto. In turn, the CA also affirmed the RTC's ruling in toto. Undeterred, Sps. Llonillo are now before this Court to maintain their innocence.

At this point, I reiterate my concurrence with the ponencia's acquittal of Sps. Llonillo of the charge of Other Deceits — the elements of which are as follows:

(a) [The accused makes a] false pretense, fraudulent act or pretense other than those in [arts. 315, 316, and 317 of the RPC]; (b) such false pretense, fraudulent act or pretense must be made or executed prior to or simultaneously with the commission of the fraud; and (c) as a result, the offended party suffered damage or prejudice.

As explained in the ponencia, the records are clear that at the time of the execution of the MOA, Caspillo already knew that the subject properties were encumbered. Further, the other sangla-tira agreements over apartment unit H with Arevalo and Josol cannot serve as bases for Sps. Llonillo's conviction since they were executed only in 2011 and 2012, respectively, or after the execution of the MOA with Caspillo in 2009. Verily, Sps. Llonillo did not employ false pretense nor commit a fraudulent act prior to or simultaneous with the execution of the MOA which may have caused damage or prejudice against Caspillo.

As regards the issue on civil liability, I likewise concur with the ponencia in finding that Sps. Llonillo are merely civilly liable based on their MOA with Caspillo, and that such liability may already be awarded by this Court without a need for a remand to the MeTC.

The filing of a separate civil action is not necessary given that the evidence in the estafa case already covered the sangla-tira agreement and the MOA between Sps. Llonillo and Caspillo. Further, it bears stressing that the MeTC duly passed upon Sps. Llonillo's contention that the subject transaction is a mere loan and that they already made purported payments therefor. In fact, the MeTC found the defense of payment to be unsubstantiated. Thus, the fallo of its ruling included an award of actual damages in the amount of PHP 300,000.00 which is equivalent to the loan of Sps. Llonillo from Caspillo. On appeal, the civil liability *ex contractu* was affirmed by the RTC and the CA.

As a rule, this Court does not try factual matters in a petition for review on certiorari. One of the exceptions thereto is when the judgments of the lower courts are based on a misapprehension of facts. Here, while such ground exists for this Court to undertake a factual review in order to rectify the findings of fact of the lower courts as regards the conviction of Sps. Llonillo, I submit that their findings anent Sps. Llonillo's civil liability *ex contractu* must remain undisturbed in the present Rule 45 petition.

To emphasize, this case is rooted from a MOA which was executed way back in March 2009. At this point, to require Caspillo to institute a separate complaint to claim his hard-earned money from Sps. Llonillo would not be in keeping with the dictates of fairness and justice. As supported by the unanimous findings of the lower courts, I submit that there is already a preponderance of evidence on record to make Sps. Llonillo pay the money they admittedly loaned from Caspillo. Indeed, this disposition would obviate the filing of multiple actions, save the parties from further expenses, and the Court of its time.

Besides, Sps. Llonillo's acquittal is grounded on the presence of reasonable doubt since the alleged fraud was found not to have been committed prior to or simultaneous with the execution of the MOA with Caspillo, and that the other sangla-tira agreements with Arevalo and Josol were executed after the agreement with Caspillo. Undoubtedly, there is no declaration that the facts from which the civil liability might arise do not exist.

With regard to the Court's divergent rulings involving the determination of civil liability other than *ex delicto* in criminal cases, I am of the view that We should sustain the series of rulings wherein the Court awarded civil liability, albeit arising from other sources of obligations, in the same criminal proceeding after finding that while the evidence on record failed to prove guilt beyond reasonable doubt, there is a preponderance of evidence to support the conclusion that the accused's liability is merely civil in nature.

In *Sps. Tayamen v. People*[2] and *Wong v. Wong*,[3] the Court decreed that there is no civil liability *ex delicto* but only civil liability *ex contractu*, hence the RTC properly made no pronouncement as to the civil aspect of the case. These rulings were anchored on *Dy v. People*[4] wherein the Court held that civil liability *ex contractu* must be claimed in a separate civil action and not be awarded in the same criminal proceeding.

On the other hand, in *Eusebio-Calderon v. People*[5] and *Rimando v. Sps. Aldaba*,[6] the Court awarded civil liability in the same criminal proceeding despite the acquittal of the accused.

At this juncture, it is well to emphasize that all the foregoing cases were rendered by the Court sitting in division. In *Padilla v. Court of Appeals*,[7] a 1984 case decided unanimously by the Court sitting *en banc*, it was held:

The extinction of the civil action by reason of acquittal in the criminal case refers exclusively to civil liability *ex delicto* founded on Article 100 of the Revised Penal Code . . . In other words, the civil liability which is also extinguished upon acquittal of the accused is the civil liability arising from the act as a crime.[8]

. . . .

The judgment of acquittal extinguishes the liability of the accused for damages only when it includes a declaration that the facts from which the civil [liability] might arise did not exist. Thus, the civil liability is not extinguished by acquittal where the acquittal is based on reasonable doubt . . . as only preponderance of evidence is required in civil cases; where the court expressly declares that the liability of the accused is not criminal but only civil in nature . . . as, for instance, in the felonies of [estafa], theft, and malicious mischief committed by certain relatives who thereby incur only civil liability . . .; and, where the civil liability does not arise from or is not based upon the criminal act of which the accused was acquitted . . .[9]

. . . .

There appear to be no sound reasons to require a separate civil action to still be filed considering that the facts

to be proved in the civil case have already been established in the criminal proceedings where the accused was acquitted. Due process has been accorded the accused. [The accused] was, in fact, exonerated of the criminal charge. The constitutional presumption of innocence called for more vigilant efforts on the part of prosecuting attorneys and defense counsel, a keener awareness by all witnesses of the serious implications of perjury, and a more studied consideration by the judge of the entire records and of applicable statutes and precedents. To require a separate civil action simply because the accused was acquitted would mean needless clogging of court dockets and unnecessary duplication of litigation with all its attendant loss of time, effort, and money on the part of all concerned.[10]

Subsequently, in *Maximo v. Gerochi, Jr.*,^[11] another en banc case, the private complainant filed a petition for certiorari and mandamus to compel a judge to include in its judgment of acquittal the civil liability which the accused admitted in court. The fallo of the questioned judgment therein reads:

Verily, for all said, the Court strongly believes that in the case at bar, the prosecution, to say the least, failed to establish the guilt of accused beyond a reasonable doubt. That, herein, it appears that if accused had any obligation, it is simply civil in nature that could be properly ventilated within the context of civil law.

WHEREFORE, in view of all the foregoing, and considering that the prosecution failed to establish the guilt of accused Conchita Panghilason beyond a reasonable doubt, the Court finds accused Conchita Panghilason NOT GUILTY of all the above-entitled four (4) criminal information [sic] and ACQUITS her therefrom, with costs de oficio.[12]

The Court granted private complainant's petition and ordered the payment of accused's civil liability ex contractu despite acquittal. It explained:

If an accused is acquitted, it does not necessarily follow that no civil liability arising from the acts complained of may be awarded in the same judgment.[13]

The prevailing rule as enunciated by this Court en banc in the case of [Padilla]^[14] is that the Court may acquit an accused on reasonable doubt and still order payment of civil damages already proved in the same case without need for a separate civil action. This ruling was reiterated in the case of *People v. Jalandoni*^[15] . . . where the accused formally admitted the amount of civil damages.[16]

. . . .

The [accused] never denied her debts or obligations to the [private complainant]. Her defense was directed only towards proving the fact that the checks were issued in payment of a pre-existing obligation, not that the obligation is non-existent or paid in full . . . In his answer, the trial judge justified his refusal to award civil liability with a statement that the civil liability did not arise from any criminal act but only from a civil contract connected to the crime. He stated in his denial of the motion for reconsideration that the action for civil liability must be filed in a 'civil court.'^[17]

The foregoing argument is erroneous in view of the [Padilla] and *People v. Jalandoni* rulings earlier cited which are applicable to the facts of this case.[18]

These rulings are supported by the Rules of Court, which provides that the extinction of the criminal action does not result in the extinction of the corresponding civil action. Consistent with this, the Rules require that in judgments of acquittal, the court must state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove such guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist.^[19] Relatedly, Associate Justice Florenz D. Regalado even went on to state that in case of acquittal, the criminal court may be compelled by mandamus to determine if the act or omission from which the civil liability might arise exists, as what transpired in *Maximo*.^[20]

Pertinently, Article VIII, Section 4 (3) of the 1987 Constitution mandates that no doctrine or principle of law laid down by the Court in a decision rendered en banc or in division may be modified or reversed except by the Court sitting en banc.

A survey of jurisprudence[21] where the Court refused to award civil damages in the same criminal proceeding in case of acquittal reveals that they were all rendered by the Court sitting in division. Such modification of the ruling in Padilla is proscribed by Article VIII, Section 4 (3) of the 1987 Constitution.[22]

To be sure, the present case is an opportunity for this Court, sitting en banc, to properly settle such conflicting rulings. Hence, in light of the foregoing disquisitions, I respectfully submit that the doctrine laid down in Padilla[23] be sustained.

Plainly, Article 29[24] of the Civil Code does not prohibit the rendition of a judgment of acquittal and a judgment awarding damages in the same criminal action. The two can stand side by side. A judgment of acquittal operates to extinguish the criminal liability. It does not, however, extinguish the civil liability unless there is clear showing that the facts from which it might arise did not exist.[25]

Fittingly, it is prudent to discuss this matter in relation to the provisions governing independent civil actions under the Civil Code and the Rules of Criminal Procedure.

A single act or omission that causes damage to an offended party may give rise to two separate civil liabilities on the part of the offender — (1) civil liability ex delicto, that is, civil liability arising from the criminal offense under Article 100 of the RPC, and (2) independent civil liability, that is, civil liability that may be pursued independently of the criminal proceedings. The independent civil liability may be based on "an obligation not arising from the act or omission complained of as a felony," as provided in Article 31[26] of the Civil Code (such as for breach of contract or for tort). It may also be based on an act or omission that may constitute felony but, nevertheless, treated independently from the criminal action by specific provision of Article 33[27] of the Civil Code ("in cases of defamation, fraud, and physical injuries").[28]

This is procedurally implemented under Rule 111, Section 3 of the Rules of Criminal Procedure which states:

Sec. 3. When Civil Action May Proceed Independently. — In the cases provided in Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines, the independent civil action may be brought by the offended party. It shall proceed independently of the criminal action and shall require only a preponderance of evidence. In no case, however, may the offended party recover damages twice for the same act or omission charged in the criminal action.

Considering the distinct and independent nature of civil liabilities arising from felonies and those arising from other sources of obligations, jurisprudence holds that the offended party may pursue the two types of civil liabilities simultaneously or cumulatively, without offending the rules on forum shopping, *litis pendentia*, or *res judicata*. [29] Either of these two possible liabilities may be enforced against the offender, subject however, to the caveat under Article 2177 of the Civil Code that the offended party "cannot recover damages twice for the same act or omission" or under both causes.[30] Moreover, such independent civil actions[31] do not need to be reserved in the corresponding criminal action.[32]

Evidently, in estafa cases, the offended party has the right to file an independent civil action either under Article 31 of the Civil Code which contemplates an obligation not arising from a crime (i.e. a contract or a legal duty),[33] or Article 33 of the Civil Code which contemplates a civil action for damages arising from fraud (i.e., estafa or swindling), among others.[34]

It bears stressing that such remedies granted to the offended party are permissive in character, subject to the

injunction in general that success in financially recovering in one case should prevent a recovery of damages in the other.[35]

Preceding from the foregoing, I submit that corollary to such rights, and as a complement to the injunction against double recovery, the offended party shall have the duty to inform the criminal court of any pending independent civil action coupled with a complete statement of the present status thereof, and the civil court of any pending criminal action for estafa coupled with a complete statement of the present status thereof.

All told, subject to the injunction against double recovery, the right to file an independent civil action can harmoniously co-exist with the criminal courts' mandatory duty to rule on the accused's civil liability in the same criminal proceeding, as long as a preponderance of evidence exists to support such finding.

In any event, the foregoing propositions do not discount the possibility of a separate civil action where the offended party has not yet recovered damages in an independent civil action, especially in instances where additional facts have to be established or more evidence must be adduced or where the criminal case has been fully terminated and a separate complaint would be just as efficacious or even more expedient than a timely remand to the trial court where the criminal action was decided for further hearings on the civil aspects of the case.[36] Thus, in synthesis:

Subject to the injunction against double recovery, the offended party has the right, pursuant to Articles 31 and 33 of the Civil Code, to institute an independent civil action for the recovery of damages based on an obligation not arising from a crime (i.e. a contract or a legal duty) or fraud (i.e. estafa or swindling). Here, the burden of proof is preponderance of evidence.

The independent civil action does not need to be reserved in the corresponding criminal action, but as a complement to the injunction against double recovery, the offended party shall have the duty to inform the criminal court of any pending independent civil action coupled with a complete statement of the present status thereof, and the civil court of any pending criminal action for estafa coupled with a complete statement of the present status thereof.

In the criminal case for estafa — in case of conviction, the trial court must impose the proper penalty pursuant to the RPC and award civil damages.

In case of acquittal, the trial court must state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove such guilt beyond reasonable doubt. In either case, it shall determine if the act or omission from which the civil liability might arise did not exist.[37] In other words, if a preponderance of evidence exists to support the conclusion that the accused is civilly liable, then there is no legal obstacle for the court to make a declaration to that effect in the same criminal proceeding and order payment pursuant thereto.

I humbly submit that this doctrine is in line with Our constitutional mandate to provide a simplified and inexpensive procedure for the speedy disposition of cases without in any way diminishing, increasing, or modifying substantive rights. Moreover, it will give life and meaning to the oft-repeated adage that "justice delayed is justice denied."

Indeed, for justice to prevail, the scales must balance; justice is not to be dispensed for the accused alone. The interests of society and the offended parties, including the State, which have been wronged, must be equally considered. A verdict of conviction is not necessarily a denial of justice; and an acquittal is not necessarily a triumph of justice; for, to the society offended and the party wronged, it could also mean injustice. Justice then must be rendered even-handedly to both the accused, on one hand, and the State and the offended party, on the

other.[38]

[1] REV. PEN. CODE.

[2] G.R. No. 246986, April 28, 2021 [Per J. Delos Santos, Third Division].

[3] G.R. No. 237159, September 29, 2021 [Per J. Inting, Second Division].

[4] 792 Phil. 672, 691 (2016) [Per J. Jardeleza, Third Division].

[5] 484 Phil. 87, 101 (2004) [Per J. Ynares-Santiago, First Division].

[6] 745 Phil. 358, 363 (2014) [Per J. Perlas-Bernabe, First Division].

[7] 214 Phil. 492 (1984) [Per J. Gutierrez, Jr., En Banc].

[8] Id. at 499. (Citations omitted)

[9] Id. at 500–501. (Emphasis supplied, citations omitted)

[10] Id. at 502.

[11] 228 Phil. 311 (1986) [Per J. Gutierrez, Jr., En Banc].

[12] Id. at 312–313.

[13] Id. at 313. (Emphasis supplied)

[14] 214 Phil. 492, 506 (1984) [Per J. Gutierrez, Jr., En Banc].

[15] 216 Phil. 424, 428 (1984) [Per J. Abad Santos, En Banc].

[16] 228 Phil. 311, 313 (1986) [Per J. Gutierrez, Jr., En Banc].

[17] Id. at 316–317.

[18] Id. at 317.

[19] See *Auro v. Yasis*, 875 Phil. 800, 809 (2020) [Per J. Reyes, J. Jr., First Division]; see also RULES OF COURT, Rule 120, Sec. 2.

[20] See 2, MANUEL R. RIGUERA, PRIMER-REVIEWER ON REMEDIAL LAW, 573 (2020 ed., 2020), citing FLORENZ D. REGALADO, REMEDIAL LAW COMPENDIUM, 365–366 (1989 ed., 1989).

[21] See *Wong v. Wong*, G.R. No. 237159, September 29, 2021 [Per J. Inting, Second Division]; *Sps. Tayamen v. People*, G.R. No. 246986, April 28, 2021 [Per J. Delos Santos, Third Division]; *Dy v. People*, 792 Phil. 672 (2016) [Per J. Jardeleza, Third Division]; *People v. Singson*, 290 Phil. 9 (1992) [Per J. Campos, Jr., Second Division].

[22] See Riguera, *supra* note 20, at 367–368.

[23] 214 Phil. 492 (1984) [Per J. Gutierrez, Jr., En Banc].

[24] CIVIL CODE, art. 29 states:

ARTICLE 29. When the accused in a criminal prosecution is acquitted on the ground that his [or her] guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be

instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground.

[25] See *Padilla v. Court of Appeals*, 214 Phil. 492, 505 (1984) [Per J. Gutierrez, Jr., En Banc].

[26] CIVIL CODE, art. 31 states:

ARTICLE 31. When the civil action is based on an obligation not arising from the act or omission complained of as a felony, such civil action may proceed independently of the criminal proceedings and regardless of the result of the latter.

[27] CIVIL CODE, art. 33 states:

ARTICLE 33. In cases 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.

[28] See *Lim v. Kou Co Ping*, 693 Phil. 286, 298–299 (2012) [Per J. Del Castillo, First Division]. (Citations omitted)

[29] See *id.* at 300. (Citations omitted)

[30] See *Cancio, Jr. v. Isip*, 440 Phil. 29, 36 (2002) [Per J. Ynares-Santiago, First Division]. (Citations omitted)

[31] CIVIL CODE, arts. 31, 32, 33, 34, and 2176.

[32] *Supreme Transportation Liner, Inc. v. San Andres*, 838 Phil. 782, 784 (2018) [Per J. Bersamin, En Banc].

[33] See 1, *Edgardo L. Paras, Civil Code of the Philippines Annotated*, 176 (18th ed., 2016).

[34] See *id.* at 193; see also *Mendoza v. Alcala*, 112 Phil. 929 (1961) [Per J. Natividad, En Banc].

[35] See *id.* at 175.

[36] See *Padilla v. Court of Appeals*, 214 Phil. 492, 506 (1984) [Per J. Gutierrez, Jr., En Banc].

[37] See RULES OF COURT, Rule 120, sec. 2.

[38] See *Auro v. Yasis*, 875 Phil. 800, 809 (2020) [Per J. Reyes, J. Jr., First Division].

CONCURRENCE

LAZARO-JAVIER, J.:

This Petition for Review on Certiorari assails the Decision and the Resolution of the Court of Appeals in CA-G.R. CV No. 38855 which affirmed the trial court's verdict of conviction against Spouses Enrique and Marites Llonillo (Spouses Llonillo) for Other Deceits under the first paragraph of Article 318 of the Revised Penal Code.[1]

To recall, Spouses Llonillo were charged with Other Deceits before the Metropolitan Trial Court (MeTC), for Makati City. According to the prosecution, they approached complainant Pedro Joel Caspillo (Caspillo) and

offered him a sangla-tira venture involving several units in the two buildings they owned (subject units). In this venture, Spouses Llonillo were looking for individuals who could lend them money for a fixed period. As consideration, the lender would be entitled to the rent of the subject units as interest for the loan in the amount of PHP 10,000.00 per month. At the end of the stipulated period, the loan would be paid in full.

Assured by Spouses Llonillo that the subject units had no prior liens or encumbrances, Caspillo accepted the offer and gave PHP 300,000.00 to them. Simultaneously, the parties executed a Memorandum of Agreement (MOA) whereby Spouses Llonillo acknowledged receipt of PHP 300,000.00. It appeared, however, that the agreement on the payment of the PHP 10,000.00 monthly interest was not included in the MOA. Eventually, Caspillo failed to collect the monthly rentals from the occupants (lessees) of subject unit H. After investigating, he found out that Spouses Llonillo similarly entered into another sangla-tira venture with Germalyn Josol (Josol) and Rodrigo Arevalo (Arevalo) over subject unit H. Upon verification with the Registry of Deeds of Makati City, he further learned that the realties involved in the sangla-tira scheme were mortgaged to different banks, contrary to the representations made by Spouses Llonillo during their negotiations.[2]

The MeTC found Spouses Llonillo guilty as charged and sentenced them to six months imprisonment and imposed a fine of PHP 300,000.00 with subsidiary imprisonment in case of non-payment. Consecutively, both the Regional Trial Court and the Court of Appeals affirmed the verdict of conviction.[3]

Spouses Llonillo now assail the issuances of the Court of Appeals and pray anew for their acquittal.[4] The issues are -

(1)

Did the trial court acquire jurisdiction over the subject matter and the persons of Spouses Llonillo notwithstanding the patently defective and void Information filed in court by Assistant City Prosecutor Benjamin Vermug, Jr. without the approval of the Chief Prosecutor/Deputy Prosecutor?

(2)

May Spouses Llonillo be held liable for Other Deceits punishable under Article 318 of the Revised Penal Code?

(3)

May the Court determine their civil liability in the present case?

I fully agree with the disquisition of the esteemed Ponente.

Indeed, the trial court acquired jurisdiction to hear, try, and decide Spouses Llonillo's case despite the purportedly defective and void Information. In *Gomez v. People*,^[5] the Court pronounced that absence of the handling prosecutor's authority on the face of the Information has no connection to the trial court's power to hear and decide the case. It is sufficient for the validity of the Information or Complaint, as the case may be, that the Resolution of the investigating prosecutor recommending the filing of the same in court bears the imprimatur of the provincial, city, or chief state prosecutor whose approval is required by Section 1 of Republic Act No. 5180 and is adopted under Section 4, Rule 112 of the Rules of Court. Thus, the absence of the authority of the Chief City Prosecutor of Makati City on the face of the Information charging petitioners with Other Deceits did not affect the trial court's jurisdiction over the case.

I agree that Spouses Llonillo must be acquitted. For one to be liable for Other Deceits under Article 318 of the Revised Penal Code, it is required that the prosecution prove the following essential elements: (a) false pretense, fraudulent act or pretense other than those in the preceding articles of the Revised Penal Code; (b) such false pretense, fraudulent act or pretense must be made or executed prior to or simultaneous with the commission of the fraud; and (c) as a result, the offended party suffered damage or prejudice. It is essential that such false statement or fraudulent representation constitutes the very cause or the only motive for the complainant to part with their property.[6] Here, there was no suppression of any material fact so as to constitute false representation on the part of Spouses Llonillo.

A thorough review of the case records led the Court to discover Caspillo's admission that he was informed that the subject units were already mortgaged to banks prior to entering into the agreement with Spouses Llonillo. Consequently, as correctly ruled by the ponencia, the sangla-tira venture of Spouses Llonillo was not "made prior to or simultaneous with the commission of fraud," and no misrepresentation was committed. As such, the prosecution failed to prove all the essential elements of the crime charged. Spouses Llonillo must accordingly be acquitted.

As for their civil liability, the same may and ought to be adjudged in the same criminal case notwithstanding the verdict of acquittal. Not only is this explicitly sanctioned by existing law and jurisprudence, it is also the more practical and expedient recourse for party-litigants. Consider:

First. Article 29 of the New Civil Code expressly allows the private complainant in a criminal proceeding to recover civil liability arising from sources of obligation other than ex-delicto in case the accused was acquitted on the ground that his or her guilt was not proved beyond reasonable doubt, to wit:

ARTICLE 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground. (Emphasis and underscoring supplied)

Notably, the wording of Article 29 of the Civil Code is clearly permissive, i.e., "a civil action for damages for the same act or omission may be instituted." As such, it is not mandatory for civil liability other than ex-delicto to be recovered via a separate action. That is clearly not the import of the law. Conversely, civil liability arising from other sources of obligation may be awarded in the same criminal action where the accused was acquitted.

Second. This interpretation is duly supported by numerous cases, some of which were likewise cited and comprehensively discussed by other learned Members of the Court, including the esteemed Chief Justice Alexander G. Gesmundo and the Good Ponente himself. For the sake of brevity, I will thus no longer cite the same one by one. Just to give one example, however, I respectfully direct attention to *Padilla v. Court of Appeals*.^[7]

In *Padilla*, the Court, sitting En Banc, exhaustively discussed how a civil action for damages is not precluded by an acquittal for the same criminal act or omission. Indeed, the Civil Code does not expressly mandate that the remedy can be availed of only in a separate civil action. A separate civil case may be filed but there is no statement that such separate filing is the only and exclusive permissible mode of recovering damages, viz.:

There is nothing contrary to the Civil Code provision in the rendition of a judgment of acquittal and a judgment awarding damages in the same criminal action. The two can stand side by side. A judgment of

acquittal operates to extinguish the criminal liability. It does not, however, extinguish the civil liability unless there is clear showing that the act from which civil liability might arise did not exist.

A different conclusion would be attributing to the Civil Code a trivial requirement, a provision which imposes an uncalled for burden before one who has already been the victim of a condemnable, yet non-criminal, act may be accorded the justice which he seeks.

X X X

A separate civil action may be warranted where additional facts have to be established or more evidence must be adduced or where the criminal case has been fully terminated and a separate complaint would be just as efficacious or even more expedient than a timely remand to the trial court where the criminal action was decided for further hearings on the civil aspects of the case. The offended party may, of course, choose to file a separate action. These do not exist in this case. Considering moreover the delays suffered by the case in the trial, appellate, and review stages, it would be unjust to the complainants in this case to require at this time a separate civil action to be filed. (Emphases supplied)

I humbly opine that the Court's pronouncement in Padilla is the applicable ruling and thus must govern. To reiterate, Padilla clearly instructs that, as a general rule, civil liability except civil liability *ex delicto*, may be awarded in the criminal proceeding where the accused was acquitted. The exception, i.e., a separate civil action therefor must be filed, when: (1) additional facts have to be established; (2) more evidence must be adduced; or (3) the criminal case has been fully terminated and a separate complaint would be just as efficacious or more expedient than a timely remand to the trial court where the criminal action was decided for further hearings on the civil aspects of the case. None of the foregoing exceptions are, however, applicable in this case.

Lastly, I believe that it is more prudent and reasonable to allow the determination of the civil liability of Spouses Llonillo in the same criminal case despite their acquittal.

Ruling on the accused's civil liability arising from other sources of obligation in the same criminal case does not necessarily violate the accused's right to due process. For the accused's civil liability arising from whichever source, e.g., *ex delicto* or *ex contractu*, originates from the same act or omission subject of the criminal case. More often than not, therefore, the reality is the facts, evidence, and arguments or defenses of the parties in the criminal case and any separate civil action are closely intertwined, if not identical. Further, all available defenses of the accused are usually fully ventilated in the criminal case since the consequence thereof, involving as it does the accused's very life and liberty, is greater. The instances where separate litigation is necessary are thus sparse and rare.

Here, in fact, a judicious consideration of the defenses adduced by Spouses Llonillo reveals that the same are also their defenses against their alleged breach of the MOA. Particularly, they riposted that they were not privy to the MOA and not bound by the obligations therein since they never met Caspillo or negotiated with him. For it was actually their agent, Grace Pangan, who prepared the same and conducted the said negotiations.[8] Too, I humbly submit that a ruling on the rights and obligations of the parties vis-à-vis the MOA may be issued from the totality of the facts proved during trial. Nothing thus bars the Court from rendering a pronouncement on the civil liability *ex contractu* of Spouses Llonillo.

Indeed, it is more in accord with expediency and practicality to do so. We keep in mind that the Court must promulgate rules that provide a simplified and inexpensive procedure for the speedy disposition of cases.[9] Requiring the private complainant to once again institute a complaint and litigate their case anew is nothing short of unnecessary and redundant. It would require them to submit same evidence and once again undergo the rigorous process of the trial, with the end goal of having to establish the same facts already established in the

criminal case. This is undeniably an unfair scenario for the opposing parties and the court. Worse, this will unnecessarily drain the resources and time of the parties and clog the court dockets.

ALL TOLD, I vote to ACQUIT Spouses Enrique and Marites Llonillo of the crime of Other Deceits under the first paragraph of Article 318 of the Revised Penal Code and order them to pay the civil liability arising from the breach of the MOA, if any.

[1] Decision, pp. 1–2.

[2] Id. at 3.

[3] Id. at 5–7.

[4] Id. at 1–2.

[5] 889 Phil. 915, 983–984 (2020) [Per J. Gesmundo, En Banc].

[6] *Guinhawa v. People*, 505 Phil. 383, 401 (2005) [Per J. Callejo, Sr., Second Division].

[7] 214 Phil. 492 (1984) [Per J. Gutierrez, Jr., En Banc].

[8] Decision, pp. 3–4.

[9] 1987 Constitution, Article VIII, Section 5(5). The Supreme Court shall have the following powers: x x x (5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

DISSENTING OPINION

GAERLAN, J.:

The due process clause enshrined in the Bill of Rights cannot be forsaken for the sake of speed and convenience in the resolution of cases. The rights to be notified and effectively heard reign supreme. An award of civil liability arising from sources other than delict in the same criminal proceeding offends the basic tenets of due process of law, which the Court, as the guardian of the Constitution, must stringently protect.

Spouses Enrique and Marites Llonillo (spouses Llonillo) were charged with the crime of Other Deceits in violation of Article 318 of the Revised Penal Code (RPC). The charge stemmed from the Memorandum of Agreement (MOA) executed between the spouses Llonillo and private complainant Pedro Joel Caspillo (Caspillo), whereby the latter agreed to lend the former PHP 300,000.00. In exchange, the spouses Llonillo undertook to return the principal amount of PHP 300,000.00. Additionally, the spouses Llonillo offered a sangla-tira arrangement, wherein Caspillo will receive a monthly rental of PHP 10,000.00 for apartment Unit H located at No. 236 Aguho Street owned by the spouses Llonillo, as interest.

Purportedly, the spouses Llonillo assured Caspillo that the properties where the unit stood had no liens, which enticed the latter to agree and part with his money. Unfortunately, Caspillo was unable to collect the monthly

rentals promised to him. Worse, Caspillo discovered that the spouses Llonillo entered into another sangla-tira arrangement with other persons over Unit H. To his further dismay, he likewise learned that the properties wherein Unit H stood were mortgaged to different banks contrary to the spouses Llonillo's representation that they were unencumbered.

Adding to Caspillo's woes, the spouses Llonillo failed to repay him the PHP 300,000.00 they owed. Angered, Caspillo filed a complaint against the spouses Llonillo for other deceits under Article 318 of the RPC.

The Metropolitan Trial Court[1] adjudged the spouses Llonillo guilty beyond reasonable doubt of other deceits. This ruling was affirmed by the Regional Trial Court[2] and the Court of Appeals.[3]

Upon Petition for Review on Certiorari[4] of the spouses Llonillo, the ponencia reversed the earlier pronouncements and acquitted them for failure of the prosecution to prove that they made a false pretense prior to or simultaneously with the commission of the alleged fraud against Caspillo. Despite the acquittal, the ponencia ordered the spouses Llonillo to pay Caspillo the principal amount of the loan of PHP 300,000.00.

I concur that the spouses Llonillo must be exonerated of the charge, however, I disagree that the award of PHP 300,000.00 as civil indemnity should be granted in the same criminal proceeding.

Rules for the recovery of civil liability in criminal cases

It is a basic tenet in criminal law that "[e]very person criminally liable for a felony is also civilly liable." [5] Civil liability includes restitution, reparation of the damage caused, and indemnification for consequential damages. [6] The civil action for recovery of civil liability arising from the offense charged is impliedly instituted with the criminal action, unless the offended party expressly waives the civil action or reserves the right to institute it separately. [7] This civil liability *ex delicto* arises from the same act or omission constituting the crime.

Significantly, Article 29 of the Civil Code states that when the accused in a criminal prosecution is acquitted on the ground that his or her guilt has not been proven beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted and shall only require a preponderance of evidence. As such, even if there is no sufficient proof that the act or omission is criminal beyond reasonable doubt, if there is at least a preponderance of evidence to show that the act or omission caused injury, compensation may be demanded in the same criminal proceeding. [8] It is important to note however that the civil liability referred to in Article 29 of the Civil Code pertains to civil liability *ex delicto*, or that which arose from the very same act or omission as the crime.

On the other hand, Rule 111, Section 2 of the Rules on Criminal Procedure provides an exception to the survival of the civil action. Thus, "... the civil action based on delict shall be deemed extinguished if there is a finding in a final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist." [9] Jurisprudence further adds that civil liability shall likewise be barred upon proof that the accused did not commit the act or omission imputed to him or her. [10]

The rules for the recovery of civil liability *ex delicto* are simplified in *Manantan v. Court of Appeals*, [11] as follows: an acquittal based on reasonable doubt on the guilt of the accused may open the door to civil liability, which only demands a preponderance of evidence, whereas an acquittal on the ground that the accused is not the author of the act or omission complained of closes the door to civil liability, for a person who is not the perpetrator of any act or omission can never be held liable for such act or omission.

Ultimately, the survival of civil liability *ex delicto* depends on the reason behind the acquittal – whether the crime was possibly committed but reasonable doubt exists on the guilt of the accused, or that no crime was committed at

all.

The spouses Llonillo are not guilty of Other Deceits

The RPC defines and penalizes the crime of other deceits as follows:

ARTICLE 318. Other deceits. The penalty of *arresto mayor* and a fine of not less than the amount of the damage caused and not more than twice such amount shall be imposed upon any person who shall defraud or damage another by any other deceit not mentioned in the preceding articles of this chapter.

....

The crime of other deceits is a catch-all provision that covers all other acts of swindling not falling under Articles 315,[12] 316,[13] and 317[14] of the RPC.[15]

To secure a conviction for other deceits, the prosecution must prove the following elements beyond reasonable doubt: (i) the accused made a false pretense, fraudulent act, or pretense other than those mentioned in Articles 315, 316, and 317 of the RPC; (ii) such false pretense, fraudulent act, or pretense must be made or executed prior to or simultaneously with the commission of the fraud; and (iii) as a result, the offended party suffered damage or prejudice. The gravamen of other deceits is the utterance of a false statement or fraudulent representation that caused the offended party to part with his or her money or property.[16]

Relatedly, deceit is ". . . the false representation of a matter of fact whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed which deceives or is intended to deceive another so that [they] shall act upon it to [their] legal injury." [17] In turn, concealment is the fraudulent unlawful intent to hide facts the other party ought to know. While, false representation is the suppression of a material fact a party must, in good faith, disclose.[18]

In this case, the spouses Llonillo did not defraud Caspillo to part with his money. Caspillo's testimony in open court reveals that at the time he entered into a loan agreement with the spouses Llonillo, he already knew that the properties were mortgaged to various banks. Caspillo testified that he was shown two separate copies of the certificates of title, which he examined. He further admitted that the dorsal portion of the last page of both titles bore an annotation that the properties were mortgaged to a financial institution. Moreover, he was aware that the spouses Llonillo could not present the original titles because they were in the possession of the bank where they were mortgaged. Clearly, the spouses Llonillo did not conceal any fact or make any false representation of a matter of fact.

In the same manner, neither will the spouses Llonillo's act of entering into *sangla-tira* arrangements with other persons render them liable for other deceits. When the spouses Llonillo and Caspillo executed the MOA in 2009, Unit H was not covered by any *sangla-tira* agreement with any person, except Caspillo. The subsequent *sangla-tira* arrangements with other persons were entered into in 2011 and 2012. In other deceits, the false statement or fraudulent representation must occur simultaneously with the commission of the fraud.[19]

It cannot be gainsaid that without the commission of fraud at the time of the execution of the MOA, there is no crime of other deceits to speak of. To reiterate, the essence of other deceits is the utterance of a false statement or fraudulent representation simultaneously with the fraud that lured the complainant to part with his or her money or property. Consequently, in the absence of criminal fraud, what remains is a loan agreement freely entered by the parties.

In fact, the ponencia exonerates the spouses Llonillo due to the absence of a false pretense. Interestingly, the ponencia acknowledges that the parties entered into a loan agreement, and even attributes the damage or prejudice

from the failure of the spouses Llonillo to pay Caspillo "the full amount of their PHP 300,000.00 loan." The ponencia further concludes that the act from which the civil liability might arise is the act of loaning the PHP 300,000.00 and not paying it back on time:

As mentioned, there are three elements of the crime of Other Deceits under Article 318 of the RPC: (a) false pretense, fraudulent act or pretense other than those in (Articles 315, 316, and 317); (b) such false pretense, fraudulent act or pretense must be made or executed prior to or simultaneously with the commission of the fraud; and (c) as a result, the offended party suffered damage or prejudice. In this case, the first and second elements do not exist as there was no false pretense. However, the element of damage still exists: there is no proof that [the Spouses Llonillo] have paid Caspillo the full amount of their PHP 300,000.00 loan. There is still an act from which civil liability might arise: the act of loaning PHP 300,000.00 and not timely paying it back despite demand.[20] (Emphasis and underscoring supplied)

Verily, the obligation of the spouses Llonillo to return the amount of PHP 300,000.00 did not arise from a crime, but from a contract of loan. Thus, the obligation to pay back the PHP 300,000.00 is not *ex delicto* or one that arose from the crime, but *ex contractu*, one that sprung from the contract of loan. The absence of deceit and false pretense proves that the transaction was purely civil in nature and voluntary on both parties.

Corollary, a finding that the source of the obligation is a contract of loan is completely inconsistent with the commission of other deceits. In other deceits, the victim suffered damage or prejudice because of the false pretense or fraudulent act made or executed by the accused prior to or simultaneously with the commission of the fraud. While in a contract, the victim willingly parted with his or her money upon the expectation of receiving something in return. Thus, in other deceits, the accused's failure to return the money partakes of criminal fraud, whereas in a contract of loan, it merely constitutes a contractual breach. Ultimately, this means that there is no civil liability *ex delicto*.

Accordingly, Caspillo's predicament of losing PHP 300,000.00 may not be regarded as a "damage or prejudice" caused by a crime. Rather, it was the result of the spouses Llonillo's breach of their civil obligation under the contract of loan to repay Caspillo. Since the obligation to return the amount is not the result of a crime, it may not be enforced in the same criminal proceeding. To recall, Article 29 of the Civil Code which allows the recovery of civil liability in the same criminal proceeding speaks of civil liability *ex delicto*. It does not contemplate civil liability *ex contractu*, as in the case at bar. Without the act or omission that constitutes criminal fraud, civil liability *ex delicto* cannot be awarded as it cannot be sourced from something that does not exist.

The award of civil liability *ex contractu* in the same criminal proceeding offends the due process clause

Article III, Section 1 of the 1987 Constitution guarantees that no person shall be deprived of life, liberty, or property without due process of law.[21] Procedural due process is that which hears before it condemns and proceeds upon inquiry and renders judgment only after trial.[22] The essence of procedural due process is embodied in the basic requirement of notice and a real opportunity to be heard.[23]

An award of civil liability arising from sources other than delict in the criminal case offends the basic requirements of due process of law. Naturally, a proceeding that heavily centers on proving the guilt of an accused in a criminal trial will only tangentially touch upon the civil liability that stems from a completely distinct source of obligation.

Remarkably, in *Dy v. People*,[24] this Court painstakingly discussed the deleterious consequences in allowing the civil liability, which did not arise from the crime, to be tried in the same criminal proceeding:

The Rules of Court requires that any person invoking the power of the judiciary to protect or enforce a right or prevent or redress a wrong must file an initiatory pleading which embodies a cause of action, which is defined

as the act or omission by which a party violates a right of another. The contents of an initiatory pleading alleging a cause of action will vary depending on the source of the obligation involved. In the case of an obligation arising from a contract, as in this case, the cause of action in an initiatory pleading will involve the duties of the parties to the contract, and what particular obligation was breached. On the other hand, when the obligation arises from an act or omission constituting a crime, the cause of action must necessarily be different. In such a case, the initiatory pleading will assert as a cause of action the act or omission of respondent, and the specific criminal statute he or she violated. Where the initiatory pleading fails to state a cause of action, the respondent may file a motion to dismiss even before trial. These rules embody the fundamental right to notice under the Due Process Clause of the Constitution.

In a situation where a court (in a fused action for the enforcement of criminal and civil liability) may validly order an accused-respondent to pay an obligation arising from a contract, a person's right to be notified of the complaint, and the right to have the complaint dismissed if there is no cause of action, are completely defeated. In this event, the accused-respondent is completely unaware of the nature of the liability claimed against him or her at the onset of the case. The accused-respondent will not have read any complaint stating the cause of action of an obligation arising from a contract. All throughout the trial, the accused-respondent is made to believe that should there be any civil liability awarded against him or her, this liability is rooted from the act or omission constituting the crime. The accused-respondent is also deprived of the remedy of having the complaint dismissed through a motion to dismiss before trial. In a fused action, the accused-respondent could not have availed of this remedy because he or she was not even given an opportunity to ascertain what cause of action to look for in the initiatory pleading. In such a case, the accused-respondent is blindsided. He or she could not even have prepared the appropriate defenses and evidence to protect his or her interest. This is not the concept of fair play embodied in the Due Process Clause. It is a clear violation of a person's right to due process.

The Rules of Court also allows a party to a civil action certain remedies that enable him or her to effectively present his or her case. A party may file a cross-claim, a counterclaim or a third-party complaint. The Rules of Court prohibits these remedies in a fused civil and criminal case. The Rules of Court requires that any cross-claim, counterclaim or third-party complaint must be instituted in a separate civil action. In a legal regime where a court may order an accused in a fused action to pay civil liability arising from a contract, the accused-respondent is completely deprived of the remedy to file a cross-claim, a counterclaim or a third-party complaint. This—coupled with an accused-respondent's inability to adequately prepare his or her defense because of lack of adequate notice of the claims against him or her—prevents the accused-respondent from having any right to a meaningful hearing. The right to be heard under the Due Process Clause requires not just any kind of an opportunity to be heard. It mandates that a party to a case must have the chance to be heard in a real and meaningful sense. It does not require a perfunctory hearing, but a court proceeding where the party may adequately avail of the procedural remedies granted to him or her. A court decision resulting from this falls short of the mandate of the Due Process Clause.[25]

The fears espoused in Dy[26] are more real than imaginary. In the erroneously fused action, at the outset of the trial, the spouses Llonillo were completely unaware of the nature and origin of their liability –fraudulent misrepresentations or breach of contract. Worse, all throughout the trial, they focused their defenses on proving the absence of fraud, deceit or concealment. They failed to present counterevidence regarding the amount of the loan, or the terms thereof, which would ultimately be the source of their liability. Overall, they did not have the full opportunity to prepare their appropriate defenses and evidence to protect their interest.

Moreover, the spouses Llonillo were deprived of procedural remedies that would have been available in a civil proceeding, such as a motion to dismiss before the trial, or the opportunity to ascertain what cause of action to look for in the initiatory pleading. Further, they did not have the opportunity to file a cross-claim, a counterclaim or a third-party complaint. These are not simple procedural remedies that may be brushed aside, but they

constitute the very heart of the right to be heard and to mount a meaningful defense, as guaranteed by the Constitution.

Similarly, the due process clause applies with equal force to the complainant who is at risk of losing his or her property. In an erroneously fused civil action, the private complainant will likewise be deprived of the chance to fully present evidence in support of his or her arguments.

In the case at bar, the prosecution heavily focused on proving the elements of deceit and fraud. On the other hand, the MOA and the terms of the loan were only tangentially discussed. Caspillo was not given the full opportunity to present all his monetary claims against the spouses Llonillo. In fact, the judgment failed to award Caspillo all damages that he would have been entitled to pursuant to the terms of the loan agreement. The ponencia only awarded the principal amount of the loan, notwithstanding the fact that Caspillo was likewise entitled to the monthly rentals of Unit H, as interest. Moreover, in a civil action, Caspillo would have been allowed to file a claim for other damages aside from the amount owed him. Certainly, a civil action for collection of sum of money would have provided a better venue where the terms of the loan and other relevant details may be fully threshed out.

The En Banc Estafa case of *People v Pantig*[27] and subsequent pronouncements, forbid the recovery of civil liability ex contractu in the same criminal proceeding

Interestingly, in a string of cases involving Estafa, a crime which necessarily includes other deceits, it was held that the action to recover civil liability in the same criminal proceeding strictly refers to civil liability ex delicto. It by no means, includes a civil liability arising from a different source of obligation, such as a contract. Where the civil liability is ex contractu, the court hearing the criminal case is bereft of authority to award damages.[28]

Notably, in *Pantig*,[29] this Court sitting En Banc resolved the issue regarding the recovery of civil liability ex contractu in the same criminal trial which acquitted the accused. Finding that the civil liability did not arise from the crime but from a contract of loan, this Court strictly forbade the recovery of civil liability in the same criminal proceeding and thus ordered the filing of a separate civil action for the recovery of the amount owed:

The trial court found as a fact that the sum of P1,200, ordered to be paid in the judgment of acquittal, was received by the defendant-appellant as loan. This finding is inconsistent with the existence of the criminal act charged in the information. The liability of the defendant for the return of the amount so received arises from a civil contract, not from a criminal act, and may not be enforced in the criminal case.

The portion of the judgment appealed from, which orders the defendant-appellant to pay the sum of [PHP] 1,200 to the offended party, is hereby revoked, without prejudice to the filing of a civil action for the recovery of the said amount.[30] (Emphasis supplied)

Applying the same precedent, *People v. Singson*,[31] stringently held that when there is no proven deceit or fraud, there is no crime of estafa. Thus, any civil liability may be established in a separate civil case.

Following suit, *Dy*,[32] ruled that without the element of misappropriation or conversion, the transaction between the parties was in reality a contract of loan. Hence, the civil liability arising from the loan partakes of a civil liability ex contractu and may not be recovered in the same criminal proceeding.[33]

Echoing the same pronouncement, *Estate of Honorio Poblador, Jr. v. Manzano*,[34] held that absent the element of fraud, there could be no misappropriation or conversion to speak of that would justify the charge of Estafa. As such, there is no civil liability ex delicto.

In a similar vein, *Spouses Ricardo and Carmelita Tayamen v. People*[35] enunciated that the civil liability which

does not arise from the crime must be claimed in a separate civil action. The amount sought to be recovered, which was the consideration for the sale, may not be awarded in the criminal case where the elements of the crime were not duly proven.

Espousing the same view, *Wong v. Wong*,^[36] underscored that there could be no civil liability *ex delicto* in the absence of a crime. Correspondingly, without the crucial elements of the crime, civil liability may not be recovered in the same criminal case.

Indubitably, the aforementioned cases involved an acquittal for the criminal case of *Estafa* (which necessarily includes other deceits). Finding that the civil liability in said cases stemmed from a contract, this Court forbade recovery in the same criminal case. These pronouncements should be applied to the case at bar, which is on all fours with the cited cases.

All told, without the elements of other deceits, civil liability *ex delicto* cannot be awarded, as it cannot be sourced from something that does not exist. Equally important, in a criminal prosecution, the mighty powers and resources of the State are all stacked against the accused. To tilt the scales evenly, the Constitution affords the accused protection through the due process clause – a potent assurance to be notified and heard. These sacred rights cannot be conveniently brushed aside on the pretext of speed and convenience in the disposition of the case. Concededly, a separate civil proceeding for the recovery of civil liability *ex contractu* may entail more time, yet this precious time allows the accused to fully thresh out his or her defenses and avail of all legal remedies for his or her protection.

FOR THESE REASONS, I vote to delete the award of PHP 300,000.00 and order the civil liability arising from the loan contract to be resolved in the appropriate civil proceeding.

[1] Rollo, pp. 187–195. The December 9, 2015 Decision in Crim. Case No. 373324 was penned by Presiding Judge Henry E. Laron of Branch 65, Metropolitan Trial Court, Makati City.

[2] *Id.* at 196–202. The April 27, 2016 Decision in Criminal Case No. 16-003 was penned by Presiding Judge Elpidio R. Calis of Branch 133, Regional Trial Court, Makati City.

[3] *Id.* at 104–122. The July 30, 2018 Decision in CA-G.R. CR No. 38855 was penned by Associate Justice Elihu A. Ybañez and concurred in by Associate Justices Rosmari D. Carandang (a retired Member of the Court) and Pedro B. Corales of the Third Division, Court of Appeals, Manila.

[4] Rollo, pp. 3–103.

[5] REV. PEN. CODE, art. 100.

[6] REV. PEN. CODE, art. 104.

[7] RULES ON CRIMINAL PROCEDURE, Rule 111, sec. 1.

[8] *Dy v. People*, 792 Phil. 672, 685 (2016) [Per J. Jardeleza, Third Division].

[9] RULES ON CRIMINAL PROCEDURE, Rule 111, sec. 2.

[10] *Dayap v. Sendiong*, 597 Phil. 127, 141 (2009) [Per J. Tinga, Second Division].

[11] 403 Phil. 298, 308–309 (2001) [Per J. Quisumbing, Second Division].

[12] Article 315. Swindling (*estafa*). - Any person who shall defraud another by any of the means mentioned

hereinbelow shall be punished by:

1st. The penalty of prision correccional in its maximum period to prision mayor in its minimum period, if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos, and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed under the provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be.

2nd. The penalty of prision correccional in its minimum and medium periods, if the amount of the fraud is over 6,000 pesos but does not exceed 12,000 pesos;

3rd. The penalty of arresto mayor in its maximum period to prision correccional in its minimum period if such amount is over 200 pesos but does not exceed 6,000 pesos; and

4th. By arresto mayor in its maximum period, if such amount does not exceed 200 pesos, provided that in the four cases mentioned, the fraud be committed by any of the following means:

1. With unfaithfulness or abuse of confidence, namely:

(a) By altering the substance, quantity, or quality or anything of value which the offender shall deliver by virtue of an obligation to do so, even though such obligation be based on an immoral or illegal consideration.

(b) By misappropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property.

(c) By taking undue advantage of the signature of the offended party in blank, and by writing any document above such signature in blank, to the prejudice of the offended party or of any third person.

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceptions.

(b) By altering the quality, fineness or weight of anything pertaining to his art or business.

(c) By pretending to have bribed any Government employee, without prejudice to the action for calumny which the offended party may deem proper to bring against the offender. In this case, the offender shall be punished by the maximum period of the penalty.

(d) By post-dating a check, or issuing a check in payment of an obligation when the offender therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or the payee or holder that said check has been dishonored for lack of insufficiency of funds shall be prima facie evidence of deceit constituting false pretense or fraudulent act. (As amended by R.A. 4885, approved June 17, 1967.)

(e) By obtaining any food, refreshment or accommodation at a hotel, inn, restaurant, boarding house, lodging house, or apartment house and the like without paying therefor, with intent to defraud the proprietor or manager thereof, or by obtaining credit at hotel, inn, restaurant, boarding house, lodging house, or apartment house by the use of any false pretense, or by abandoning or surreptitiously removing any part of his baggage from a hotel, inn, restaurant, boarding house, lodging house or apartment house after obtaining credit, food, refreshment or accommodation therein without paying for his food, refreshment or accommodation.

3. Through any of the following fraudulent means:

(a) By inducing another, by means of deceit, to sign any document.

(b) By resorting to some fraudulent practice to insure success in a gambling game.

(c) By removing, concealing or destroying, in whole or in part, any court record, office files, document or any other papers.

[13] Article 316. Other forms of swindling. - The penalty of *arresto mayor* in its minimum and medium period and a fine of not less than the value of the damage caused and not more than three times such value, shall be imposed upon:

1. Any person who, pretending to be owner of any real property, shall convey, sell, encumber or mortgage the same.
2. Any person, who, knowing that real property is encumbered, shall dispose of the same, although such encumbrance be not recorded.
3. The owner of any personal property who shall wrongfully take it from its lawful possessor, to the prejudice of the latter or any third person.
4. Any person who, to the prejudice of another, shall execute any fictitious contract.
5. Any person who shall accept any compensation given him under the belief that it was in payment of services rendered or labor performed by him, when in fact he did not actually perform such services or labor.
6. Any person who, while being a surety in a bond given in a criminal or civil action, without express authority from the court or before the cancellation of his bond or before being relieved from the obligation contracted by him, shall sell, mortgage, or, in any other manner, encumber the real property or properties with which he guaranteed the fulfillment of such obligation.

[14] Article 317. Swindling a minor. - Any person who taking advantage of the inexperience or emotions or feelings of a minor, to his detriment, shall induce him to assume any obligation or to give any release or execute a transfer of any property right in consideration of some loan of money, credit or other personal property, whether the loan clearly appears in the document or is shown in any other form, shall suffer the penalty of *arresto mayor* and a fine of a sum ranging from 10 to 50 per cent of the value of the obligation contracted by the minor.

[15] *Osorio v. People*, 834 Phil. 768,783 (2018) [Per J. Leonen, Third Division].

[16] *Marcos v. People*, G.R. No. 252839, November 10, 2021 [Per J. Carandang, Third Division].

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] Ponencia, p. 13.

[21] CONST., art. III, sec. 1.

[22] *Office of the Ombudsman v. Conti*, 806 Phil. 384, 395 (2017) [Per J. Mendoza, Second Division].

[23] *Republic of the Philippines v. Frias, Sr.*, G.R. No. 243900, October 06, 2021 [Per J. Lopez, First Division].

[24] *Supra* note 8.

[25] *Supra* note 8, at 692–694.

[26] *Supra* note 8.

[27] G.R. No. L-8325, October 25, 1955 [Per J. Labrador, *En Banc*].

[28] *Supra* note 8, at 690.

[29] *Supra* note 27.

[30] Supra note 27, at 750.

[31] 290 Phil. 9, 14 (1992) [Per J. Campos, Second Division].

[32] Supra note 8, at 686.

[33] Supra note 8, at 690–691.

[34] 811 Phil. 66, 75–76 (2017) [Per J. Perlas-Bernabe, First Division].

[35] G.R. No. 246986, April 28, 2021 [Per J. Delos Santos, Third Division].

[36] G.R. No. 237159, September 29, 2021 [Per J. Inting, Second Division].

SEPARATE OPINION

LOPEZ, J., J.:

I concur with the acquittal of petitioners Spouses Enrique and Marites Llonillo (Spouses Llonillo) of the charge of Estafa (Other Deceits) due to the prosecution's failure to prove all the elements thereof. However, I express a different view with regard to the issue on determination of civil liability in the same criminal proceeding.

The relevant facts are as follows:

Spouses Llonillo entered into a sangla-tira arrangement with private complainant Pedro Joel V. Caspillo (Caspillo), under which Caspillo would lend Spouses Llonillo a sum of money, and in consideration thereof, Caspillo would be entitled to the rents of one of the apartment units owned by the spouses, as interest. The parties executed a Memorandum of Agreement (MOA) where Spouses Llonillo acknowledged the receipt of the amount of PHP 300,000.00 from Caspillo, to be paid on or before March 20, 2010.[1] Caspillo, however, failed to collect the promised monthly rentals. Caspillo investigated and discovered that Spouses Llonillo entered into similar sangla-tira arrangements involving the same apartment unit with other parties. It also turned out that the apartment units involved in the sangla-tira arrangements were mortgaged to different banks contrary to the representations of Spouses Llonillo during their negotiations. Due to their misrepresentations, petitioner spouses were charged with the crime of Estafa under Article 318 (Other Deceits) of the Revised Penal Code (RPC).[2]

The Metropolitan Trial Court (MeTC) found Spouses Llonillo guilty of the charge. The MeTC held that the prosecution established the fraudulent representation of Spouses Llonillo since the latter entered into a sangla-tira arrangements with other individuals, despite their arrangement with Caspillo. The MeTC found that there was suppression of a material fact, which the Spouses Llonillo were bound in good faith to disclose, when they rented out the apartment units.[3]

The Regional Trial Court (RTC) affirmed the ruling of the MeTC. The RTC held that the elements of deceit and damage are present as Spouses Llonillo did not disclose to Caspillo the previous mortgages to other persons and banks.[4]

The Court of Appeals (CA) likewise affirmed the conviction of Spouses Llonillo. The CA found that petitioner spouses' fraudulent representation was established when they made it appear that Caspillo could collect the rentals of the apartment unit as interest for the loan they obtained from him, which representation they knew to be false as they mortgaged the unit to different banks and entered into a sangla-tira arrangement over the same unit with other people.[5]

The ponencia acquits the Spouses Llonillo of the crime of Estafa through Other Deceits because the prosecution failed to prove that there was a false pretense and that such false pretense was made or executed prior to or simultaneously with the commission of the fraud. According to the ponencia, there is no suppression of a material fact since Caspillo was aware that the apartment unit was mortgaged to financial institutions at the time he entered into the sangla-tira arrangement.[6] The other sangla-tira arrangements could also not be the basis for Spouses Llonillo's conviction as they were entered into after the execution of the MOA with Caspillo.[7] However, the ponencia ordered Spouses Llonillo to pay Caspillo the loan amount of PHP 300,000.00.[8]

I concur with the acquittal of petitioner spouses of the charge of Estafa (Other Deceits) due to the prosecution's failure to prove all its elements.

For an accused to be held criminally liable under Article 318 of the RPC, the following elements must concur: (i) the accused makes a false pretense, fraudulent act or pretense other than those in Articles 315, 316, and 317 of the RPC; (ii) such false pretense, fraudulent act or pretense must be made or executed prior to or simultaneously with the commission of the fraud; and (iii) as a result, the offended party suffered damage or prejudice.[9]

As correctly found by the ponencia, at the time of the execution of the MOA, Caspillo already knew that the subject properties were mortgaged to financial institutions since he admitted that he had seen the copies of the certificates of title covering the apartment unit during negotiations. Further, the other sangla-tira agreements over the apartment unit with other people cannot serve as basis for Spouses Llonillo's conviction since they were entered into after the execution of the MOA with Caspillo. Thus, Spouses Llonillo did not employ false pretense nor commit a fraudulent act prior to or simultaneous with the execution of the MOA, which may have caused damage or prejudice against Caspillo. Accordingly, Spouses Llonillo should be acquitted of the charge of Estafa through Other Deceits.

However, I do not agree with the ponencia's ruling that civil liability can be adjudged against Spouses Llonillo in the same criminal case.

It is a fundamental principle that every person criminally liable for a felony is also civilly liable.[10] This is borne of the recognition that a person found guilty of committing a crime has caused injury to two parties—first, the state, hence the criminal liability, and second, the private complainant, hence the civil liability.

If the accused, however, is not found to be criminally liable, it does not automatically prevent a judgment as to the civil aspect of the case.[11] Rule 111, Section 2 of the Revised Rules of Court specifically states that:

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

In *Manantan v. Court of Appeals*,[12] this Court explained the two kinds of acquittal and their concomitant effects on the civil liability of the accused, as follows:

Our law recognizes two kinds of acquittal, with different effects on the civil liability of the accused. First is an acquittal on the ground that the accused is not the author of the act or omission complained of. This instance closes the door to civil liability, for a person who has been found to be not the perpetrator of any act or omission cannot and can never be held liable for such act or omission. There being no delict, civil liability ex delicto is out of the question, and the civil action, if any, which may be instituted must be based on grounds other than the delict complained of. . . . The second instance is an acquittal based on reasonable doubt on the guilt of the accused. In this case, even if the guilt of the accused has not been satisfactorily established, he is not exempt from civil liability which may be proved by preponderance of evidence only.[13]

The ponencia holds that the civil liability arising from sources other than the delict may be adjudged in the same criminal action where the judgment of acquittal was pronounced. However, this position is incongruent with our rules of procedure. The rules of procedure established by this Court are clear that the civil action deemed instituted when a criminal case is filed is limited only to the enforcement of civil liability ex delicto:

Under Section 1 of the present Rule 111, what is "deemed instituted" with the criminal action is only the action to recover civil liability arising from the crime or ex delicto. All the other civil actions under Articles 32, 33, 34 and 2176 of the Civil Code are no longer "deemed instituted," and may be filed separately and prosecuted independently even without any reservation in the criminal action.[14]

Accordingly, a criminal case is not the proper proceedings to determine accused's civil liability arising from a source of obligation other than delict. The court trying a criminal case should limit itself to the criminal aspect and the civil liability of the accused arising out of the crime.[15]

The Court reiterated in *Dy v. People*[16] that the civil liability which attaches to a criminal action pertains only to the recovery of civil liability ex delicto, and not to civil liability arising from a different source of obligation, as in the case of a contract where the civil liability is ex contractu. Thus, the civil liability that arises from a different source of obligation must be filed separately:

Our law states that every person criminally liable for a felony is also civilly liable. This civil liability ex delicto may be recovered through a civil action which, under our Rules of Court, is deemed instituted with the criminal action. While they are actions mandatorily fused, they are, in truth, separate actions whose existences are not dependent on each other. Thus, civil liability ex delicto survives an acquittal in a criminal case for failure to prove guilt beyond reasonable doubt. However, the Rules of Court limits this mandatory fusion to a civil action for the recovery of civil liability ex delicto. It, by no means, includes a civil liability arising from a different source of obligation, as in the case of a contract. Where the civil liability is ex contractu, the court hearing the criminal case has no authority to award damages.

....

When the court finds that the source of obligation is in fact, a contract, as in a contract of loan, it takes a position completely inconsistent with the presence of estafa. In estafa, a person parts with his money because of abuse of confidence or deceit. In a contract, a person willingly binds himself or herself to give something or to render some service. In estafa, the accused's failure to account for the property received amounts to criminal fraud. In a contract, a party's failure to comply with his obligation is only a contractual breach. Thus, any finding that the source of obligation is a contract negates estafa. The finding, in turn, means that there is no civil liability ex delicto.[17] (Emphasis supplied)

Thus, *Dy v. People* instructs that whenever the elements of Estafa are not established, and the delivery of any personal property is pursuant to a contract, any civil liability arising from the Estafa cannot be awarded in the criminal case. This is because the civil liability arising from the contract is not civil liability ex delicto, or that which arises from the same act or omission constituting the crime. Rather, it is civil liability ex contractu, which arises from an entirely different source of obligation. Therefore, it is not the type of civil action deemed instituted in the criminal case and, consequently, must be filed separately.[18]

It is also worthy to note that the corpus delicti of Estafa is fraud. Fraud is an essential element of Estafa, and its presence is necessary to prove the commission of the crime. If there is no evidence of fraud or deceit, there is no crime committed. Estafa necessitates a showing that the accused intentionally deceived another party, leading to wrongful gain or damage.

Here, petitioner spouses were acquitted because of the absence of the element of false pretense or fraud. Petitioner

spouses did not commit any false pretense or fraud that could have deceived Caspillo into executing the MOA and parting with his money. The acquittal of petitioner spouses is not merely based on reasonable doubt; there is absolutely no factual basis for criminal liability. Since petitioner spouses' civil liability arises from a contract, which is not related to the allegation of fraud, it must be threshed out in a separate case. Petitioner spouses' civil liability arising from the contract should be pursued through a separate civil proceeding, where the terms of the contract and obligations of the parties can be properly examined and determined.

Further, this Court elucidated that the fusion of criminal and civil actions can deprive an accused of their right to a meaningful hearing, violating the accused's right to due process:

The Due Process Clause of the Constitution dictates that a civil liability arising from a contract must be litigated in a separate civil action.

Section 1 of the Bill of Rights states that no person shall be deprived of property without due process of law. This provision protects a person's right to both substantive and procedural due process. Substantive due process looks into the validity of a law and protects against arbitrariness. Procedural due process, on the other hand, guarantees procedural fairness. It requires an ascertainment of "what process is due, when it is due, and the degree of what is due." This aspect of due process is at the heart of this case.

In general terms, procedural due process means the right to notice and hearing. More specifically, our Rules of Court provides for a set of procedures through which a person may be notified of the claims against him or her as well as methods through which he or she may be given the adequate opportunity to be heard.

The Rules of Court requires that any person invoking the power of the judiciary to protect or enforce a right or prevent or redress a wrong must file an initiatory pleading which embodies a cause of action, which is defined as the act or omission by which a party violates a right of another. The contents of an initiatory pleading alleging a cause of action will vary depending on the source of the obligation involved. In the case of an obligation arising from a contract, as in this case, the cause of action in an initiatory pleading will involve the duties of the parties to the contract, and what particular obligation was breached. On the other hand, when the obligation arises from an act or omission constituting a crime, the cause of action must necessarily be different. In such a case, the initiatory pleading will assert as a cause of action the act or omission of respondent, and the specific criminal statute he or she violated. Where the initiatory pleading fails to state a cause of action, the respondent may file a motion to dismiss even before trial. These rules embody the fundamental right to notice under the Due Process Clause of the Constitution.

In a situation where a court (in a fused action for the enforcement of criminal and civil liability) may validly order an accused-respondent to pay an obligation arising from a contract, a person's right to be notified of the complaint, and the right to have the complaint dismissed if there is no cause of action, are completely defeated. In this event, the accused-respondent is completely unaware of the nature of the liability claimed against him or her at the onset of the case. The accused-respondent will not have read any complaint stating the cause of action of an obligation arising from a contract. All throughout the trial, the accused-respondent is made to believe that should there be any civil liability awarded against him or her, this liability is rooted from the act or omission constituting the crime. The accused-respondent is also deprived of the remedy of having the complaint dismissed through a motion to dismiss before trial. In a fused action, the accused-respondent could not have availed of this remedy because he or she was not even given an opportunity to ascertain what cause of action to look for in the initiatory pleading. In such a case, the accused-respondent is blindsided. He or she could not even have prepared the appropriate defenses and evidence to protect his or her interest. This is not the concept of fair play embodied in the Due Process Clause. It is a clear violation of a person's right to due process.

The Rules of Court also allows a party to a civil action certain remedies that enable him or her to effectively present his or her case. A party may file a cross-claim, a counterclaim or a third-party complaint. The Rules of

Court prohibits these remedies in a fused civil and criminal case. The Rules of Court requires that any cross-claim, counterclaim or third-party complaint must be instituted in a separate civil action. In a legal regime where a court may order an accused in a fused action to pay civil liability arising from a contract, the accused-respondent is completely deprived of the remedy to file a cross-claim, a counterclaim or a third-party complaint. This—coupled with an accused-respondent's inability to adequately prepare his or her defense because of lack of adequate notice of the claims against him or her—prevents the accused-respondent from having any right to a meaningful hearing. The right to be heard under the Due Process Clause requires not just any kind of an opportunity to be heard. It mandates that a party to a case must have the chance to be heard in a real and meaningful sense. It does not require a perfunctory hearing, but a court proceeding where the party may adequately avail of the procedural remedies granted to him or her. A court decision resulting from this falls short of the mandate of the Due Process Clause.[19] (Citations omitted)

It is important to recognize that the rules of procedure in criminal and civil cases are distinct and separate. In a criminal case, the burden of proof lies with the prosecution, which must demonstrate the accused's guilt beyond a reasonable doubt. This is a high standard of proof that requires moral certainty, leaving no reasonable doubt in the mind of the court. As such, the defense's primary focus is on disproving the elements of the crime as stated in the information, and raising defenses that are applicable to the situation. The information serves as a formal written accusation that outlines the specific charges against the accused and provides them with notice of the allegations they are facing. Thus, the accused in a criminal case prepares their defense based on the crime stated in the information.

Conversely, in a civil case, the burden of proof lies with the plaintiff, who must prove their case by a preponderance of evidence. This is a lower standard of proof compared to proof beyond a reasonable doubt standard in criminal cases. The defendant's defense in a civil case often revolves around attacking the legal and factual basis of the plaintiff's complaint, seeking to demonstrate the absence of liability. Additionally, the defendant may file a motion to dismiss to prove the absence of a basis to collect the civil liability.

The procedural disparities between criminal and civil cases underscore the necessity of maintaining separate proceedings for adjudicating each type of liability. Thus, any civil liability arising from a source other than a criminal act must be pursued in a separate civil action. To do otherwise would violate the fundamental right to due process guaranteed to the accused.

While it may be argued that adjudicating civil liability arising from a source other than delict in the same criminal case promotes efficiency and expediency, it is important to prioritize the rights of the accused and ensure a fair proceeding. Pursuing civil claims arising from a source other than delict in a separate action allows for a more thorough examination of the evidence and legal arguments, leading to a more just resolution.

Additionally, integrating civil claims arising from a different source other than delict into the criminal proceedings could allow litigants to misuse the court as a leverage to forcibly collect their civil claims against the defendants. To maintain fairness and efficiency, it is crucial to keep the civil and criminal cases separate and ensure each is resolved on its own merits.

While there have been instances[20] where this Court allowed recovery of civil liability in the same criminal case even if the source of the liability was not the crime itself, it is important to note that in such cases, civil damages were awarded since the facts sustaining them were proven by preponderant evidence.

In this case, the civil liability of petitioners Sps. Enrique Llonillo and Maritess Llonillo was based on a different source of obligation other than civil liability *ex delicto*. They admitted that they borrowed money from Caspillo, but they averred that they already made certain payments to Caspillo. Since there is an allegation of payments, the civil liability of petitioners must be threshed out in a separate case considering the insufficiency of evidence to

hold them liable. As regards the subsequent execution of another sangla-tira agreement and its effect on petitioner's contract with Caspillo, the same was not adequately ventilated in the proceedings. Therefore, a separate civil action regarding this matter is necessary.

[1] Ponencia, pp. 2-3.

[2] Id. at 3.

[3] Id. at 5.

[4] Id. at 6.

[5] Id. at 7.

[6] Id. at 11-12.

[7] Id. at 13.

[8] Id. at 22.

[9] *Osorio v. People*, 834 Phil. 768, 783 (2018) [Per J. Leonen, Third Division].

[10] Article 100, Revised Penal Code.

[11] *Auro, et al. v. Yasis and Yasis*, 875 Phil. 800 (2020) [Per J. Reyes, Jr., First Division].

[12] 403 Phil. 298 (2001) [Per J. Quisumbing, Second Division].

[13] Id. at 308-309.

[14] *Casupanan v. Laroya*, 436 Phil. 582, 596 (2002) [Per J. Carpio, Third Division].

[15] *Cabaero v. Cantos*, 338 Phil. 105 (1997) [Per J. Panganiban, En Banc].

[16] 792 Phil. 672 (2016) [Per J. Jardeleza, Third Division].

[17] Id. at 676, 690.

[18] Id. at 689-690.

[19] Id. at 692-694.

[20] See *Eusebio-Calderon v. People*, 484 Phil. 87 (2004); *Rimando v. Spouses Aldaba*, 745 Phil. 358 (2014); *Sapiera v. Court of Appeals*, 373 Phil. 148 (1999).

CONCURRING AND DISSENTING OPINION

DIMAAMPAO, J.:

While I join the Banc in pronouncing that Spouses Enrique and Marites Llonillo (spouses Llonillo), must be acquitted of the crime of Estafa under Article 318 of the Revised Penal Code (Other Deceits), I express my reservation on the conclusion reached by the ponente that the civil liability of said spouses arising from their unpaid loan may be awarded in the same criminal action.

The record evinces that spouses Llonillo entered into a sangla-tira venture with the private complainant, Pedro

Joel V. Caspillo (Caspillo), involving one of the units in the two (2) buildings they own located at 236 Aguho Street, Barangay Comembo, Makati City. Per this arrangement, spouses Llonillo admittedly received PHP 300,000.00 loan from Caspillo. In turn, as consideration thereof, Caspillo would be entitled to the monthly rental of UNIT H in the amount of PHP 10,000.00 during the duration of the agreement. At the end of the period agreed upon, the full amount of PHP 300,000.00 is to be returned, as well.

Eventually, however, Caspillo failed to collect monthly rentals from the occupants thereof. According to Caspillo, he discovered after investigation that spouses Llonillo similarly entered into another sangla-tira scheme with other individuals over Unit H. Moreover, upon verification with the Registry of Deeds of Makati City, he learned that the realties involved in the sangla-tira scheme were mortgaged to different banks contrary to the representation of spouses Llonillo during the negotiation. In view of the purported misrepresentations, Caspillo filed a complaint of estafa before the Metropolitan Trial Court (MeTC).

During the trial, while Spouses Llonillo did not dispute that they received PHP 300,000.00 in the contentious transaction which was negotiated by their agent, they denied that they made representations that the subject property was free from liens and encumbrances.

In due course, the MeTC found spouses Llonillo guilty of the charge and imposed upon them the penalties of imprisonment and fine as well as the amount of PHP 300,000.00 as actual damages. This disposition was affirmed by the Regional Trial Court (RTC) and subsequently, by the Court of Appeals (CA). Thence, spouses Llonillo commenced the instant Appeal asseverating that they must be exculpated.

As adumbrated above, I fully concur with the acquittal of Spouses Llonillo as there exists no misrepresentation. For one, Caspillo himself admitted during his testimony that he already knew that the contentious properties were already mortgaged to the banks at the time of the execution of the Memorandum of Agreement (MOA). For another, Unit H was not covered by any sangla-tira to any person except the private complainant at the time they entered the MOA. The subsequent sangla-tira arrangement by spouses Llonillo with other persons could hardly have deceived Caspillo precisely because, at that point in time, he had already executed a MOA with said spouses.

In sooth, the prosecution failed to establish all the elements for an accused to be held criminally liable under Article 318, viz.:

The accused makes a] false pretense, fraudulent act or pretense other than those in (Articles 315, 316, and 317); (b) such false pretense, fraudulent act or pretense must be made or executed prior to or simultaneously with the commission of the fraud; and (c) as a result, the offended party suffered damage or prejudice.[1]

Simply put, spouses Llonillo did not perpetrate any fraud or misrepresentation that could have deluded Caspillo to enter into such agreement and part with his money. Consequently, spouses Llonillo should be exonerated as there is absolutely no factual basis for the criminal liability.

It bears accentuating that while spouses Llonillo are hereby acquitted of Estafa (Other Deceits), the ponencia adjudged them liable for the PHP 300,000.00 loan covered by the MOA.

Quite palpably, the case at bench brings to the fore once again the issue of whether or not the accused, if not found criminally responsible for a felony, may be held civilly liable in the same criminal proceeding. On this score, primal is the rule that every person criminally liable for a felony is also civilly liable.[2] The civil liability arising from the offense or ex delicto is based on the acts or omissions that constitute the criminal offense; hence, its trial is inherently intertwined with the criminal action. Whence, the civil liability ex delicto is impliedly instituted with the criminal offense.[3] This finds a procedural hook in Section 1 of Rule 111 of the Revised Rules of Criminal Procedure, as amended, which states that what is "deemed instituted" with the criminal action is only

the action to recover civil liability arising from the crime or ex-delicto.[4]

Perforce, given that there is no factual basis for spouses Llonillo's criminal liability, their corresponding civil liability ex delicto is extinguished. The civil liability based on their contract with Caspillo should be litigated in a separate proceeding.

To my mind, an adjudication, in the same criminal proceeding, on the civil liability arising from a source other than the act or omission constituting the criminal offense charged would run roughshod over Our current legal and procedural landscapes. To be sure, I join Our esteemed colleagues in their advocacy for judicial economy, speedy disposition of cases, and inexpensive trials. Still and all, if only to protect the accused's right to due process, I humbly maintain that the civil liability arising from a different source must be threshed out in a separate case until the rules of criminal procedure shall have been revised and the proposed manner of disposition in such instances, properly codified.

I would like to put forth an illustration to aid Us in visualizing the process if the civil liability arising from a different source would have been tried and awarded in the same criminal action, where the accused was acquitted:

Prosecution presents evidence on the criminal aspect

.....

The burden of proof to establish the guilt of the accused lies with the prosecution.

?

Defense presents evidence to prove innocence, i.e., lack of element/s of the crime charged.

At this point, the defense is expected to focus its attention on proving its innocence. The burden of proof is still with the prosecution.

?

Illustration - Hypothetical situation where the accused was acquitted but found civilly liable based on a different source.

It is only at this point that the trial court determines the liability of the accused and its corresponding source. How, then, could the accused be expected to have presented evidence to counter his/her civil liability based on another source, when all that was expected of him/her during the course of the trial was to establish his/her innocence?

Trial court acquits but finds accused civilly liable based on another source.

It sticks out like a sore thumb that the proposal to allow an award of civil liability based on a different source, in the same criminal proceeding, places the accused in a dire situation, where, instead of the prosecution having the burden of proof, he or she will be required to cover all bases not only to be absolved from criminal liability, but also to free himself or herself of any civil obligation, which may or may not arise from the act or omission subject of the criminal action. This results not only in an unwarranted shift of the burden of proof, but also in an irrefutable hodgepodge of causes of action, which violates the very core of the constitutional right to due process. An accused's right to due process should not be sacrificed in the name of judicial economy.

There lies a compelling reason why the crafters of our laws, as well as Our predecessors in the Court, placed a clear demarcation on the source of civil obligation vis-à-vis the institution of a criminal action. In the foregoing illustration, if we were to apply the proposal to litigate or 'pass upon' the related issues all at once for reasons of judicial economy, at which point do we require the sitting judge to make a determination that he or she must also rule on the civil obligation arising from a different source? At which point, if any, does the accused become aware or notified that he or she must also present contrary evidence thereon – before or after the presentation of defense evidence, or after the judge has so determined that he or she is only civilly liable based on another source? In retrospect, why should we fault spouses Llonillo for not substantiating their claim of payment, when that fact barely constitutes any of the elements of Other Deceits, for which they were being prosecuted?

To stress, while petitioners admit their civil liability, they nevertheless raised the defense of payment, which, at the risk of being repetitive, they are not required to prove at that point considering the nature of the case.

This brings to light another crucial and glaring issue: as the accused will be presumably allowed to present evidence to counter his or her civil liability based on another source, is this not tantamount to allowing a counterclaim, cross-claim, or third-party complaint in criminal cases, which is categorically proscribed by Section 1, Rule 111 of the Revised Rules of Criminal Procedure? Will this situation not be tantamount to railroading justice dispensation to the damage and prejudice of the accused-obligor?

Along this grain, it bears emphasis that the prosecution of civil liabilities, nay, the institution of civil actions, mainly, is a private matter. It is not for the Court to champion any side's cause or to insist that they pursue their claims before the court.

The foregoing disquisitions notwithstanding, I submit that there are indeed instances when the award of civil liability may be made in the same criminal proceeding despite acquittal, viz.:

Hence, a civil action filed for the purpose of enforcing civil liability *ex delicto*, even if mandatorily instituted with the corresponding criminal action, survives an acquittal when it is based on the presence of reasonable doubt. In these instances, while the evidence presented does not establish the fact of the crime with moral certainty, the civil action still prevails for as long as the greater weight of evidence tilts in favor of a finding of liability. This means that while the mind of the court cannot rest easy in penalizing the accused for the commission of a crime, it nevertheless finds that he or she committed or omitted to perform acts which serve as a separate source of obligation. There is no sufficient proof that the act or omission is criminal beyond reasonable doubt, but there is a preponderance of evidence to show that the act or omission caused injury

which demands compensation.[5]

The rationale behind this rule was explicated by the Code Commission in connection with Article 29[6] of the Civil Code—

The old rule that the acquittal of the accused in a criminal case also releases him from civil liability is one of the most serious flaws in the Philippine legal system. It has given rise to numberless instances of miscarriage of justice, where the acquittal was due to a reasonable doubt in the mind of the court as to the guilt of the accused. The reasoning followed is that inasmuch as the civil responsibility is derived from the criminal offense, when the latter is not proved, civil liability cannot be demanded.

This is one of those cases where confused thinking leads to unfortunate and deplorable consequences. Such reasoning fails to draw a clear line of demarcation between criminal liability and civil responsibility, and to determine the logical result of the distinction. The two liabilities are separate and distinct from each other. One affects the social order and the other private rights. One is for punishment or correction of the offender while the other is for reparation of damages suffered by the aggrieved party It is just and proper that for the purposes of imprisonment or fine upon the accused, the offense should be proved beyond reasonable doubt. But for the purpose of indemnifying the complaining party, why should the offense also be proved beyond reasonable doubt? Is not the invasion or violation of every private right to be proved only by preponderance of evidence? Is the right of the aggrieved person any less private because the wrongful act is also punishable by the criminal law?[7]

Certainly, in cases of acquittal based on reasonable doubt, the court may justly award civil liability in the same criminal proceeding. This is but just because the accused, in such cases, is accorded due process since its determination is based on the same charge for which he or she is indicted for and given the opportunity to be heard.

However, it is an entirely different question when there is no crime from which the basis for civil liability *ex delicto* may arise and civil liability is established on grounds other than the act or omission complained of, as in this case. As heretofore stated, in light of the rule on due process, the same must be ventilated in a separate civil action.

Upon this point, it need not be overemphasized that while Article 29 was enacted to avoid multiplicity of actions and to prevent miscarriage of justice, it was not intended to tread on the right to due process of the accused. Appositely, even the case of *Padilla v. CA*[8] illuminates, thusly:

A separate civil action may be warranted where additional facts have to be established or more evidence must be adduced or where the criminal case has been fully terminated and a separate complaint would be just as efficacious or even more expedient than a timely remand to the trial court where the criminal action was decided for further hearings on the civil aspects of the case. The offended party may, of course, choose to file a separate action. Indeed, a separate civil action may be warranted where additional facts have to be established or more evidence must be adduced.[9]

In synthesis, no civil liability based on the MOA should be awarded in this case. To iterate, spouses Llonillo were indicted and tried for a criminal offense. Perforce, to hold them liable for a civil liability arising not from the crime itself sans proceeding for that purpose violates their constitutional right to due process. Basic is the rule that in criminal cases, an important component of due process is the right of the accused to be informed of the nature of the charges against him or her. A proper appraisal of the accusations would give the accused an opportunity to adequately prepare for his or her defense. Otherwise, substantial justice would be undermined.[10]

Indubitably, all the issues pertaining to the contractual agreement of the parties, the purported breach thereof, and the existence of a civil liability *ex contractu*, if any, *vis-à-vis* the petitioners' claim of payments,[11] must be fully

threshed out and addressed in a separate action intended for that sole purpose to give both parties their respective days in court.

Once more, I signify my full support to the laudable objectives of Our esteemed colleagues to avoid multiplicity of suits and foster speedy disposition of cases. All the same, in order to avoid further confusion to the various stakeholders, and more especially, to safeguard the right of the accused to due process, I maintain that the case be resolved in favor of the spouses Llonillo's acquittal without prejudice to the filing of a separate action for the recovery of civil liability *ex contractu*.

[1] See *Osorio v. People*, 834 Phil. 768, 783 (2018) [Per J. Leonen, Third Division]. Emphasis supplied.

[2] Article 100 of the Revised Penal Code.

[3] *Lim v. Kou Co Ping*, 693 Phil. 286 & 299 (2012) [Per J. Del Castillo, First Division].

[4] See *Supreme Transportation Liner, Inc. v. San Andres*, 838 Phil. 782 & 795 (2018) [Per J. Bersamin, Third Division]. Emphasis supplied.

[5] *Dy v. People*, 791 PHIL 672, 685 (2016) [Per J. Jardeleza, Third Division].

[6] ARTICLE 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground.

[7] See *Sapiera v. Court of Appeals*, 373 Phil. 148, 156-157 (1999) [Per J. Bellosillo, Second Division].

[8] See *Padilla v. Court of Appeals*, 214 Phil. 492-506 (1984) [Per J. Gutierrez, Jr., En Banc].

[9] *Id.*

[10] See *Iglesias v. Ombudsman*, 817 Phil. 338, 359 (2017) [Per J. Leonen, Third Division].

[11] *Rollo*, p. 17.

SEPARATE CONCURRING OPINION

SINGH, J.:

The Spanish Penal Law has substantial influence on Philippine Penal Laws[1] considering that the Código Penal was not superseded until the Revised Penal Code (RPC) was adopted in 1930. Under the Spanish Penal Law, a convicted felon should also be adjudged civilly liable as a part of, or in addition to, his or her criminal liability. Articles 111 and 112 of the Law of Criminal Procedure of Spain (*Ley de Enjuiciamiento Criminal*) provide that civil remedy is instituted with the penal action unless it has been waived by the party injured or has been expressly reserved for civil proceedings for the future.[2] Relative thereto, the Rules of Criminal Procedure mandate the fusion in the criminal prosecution of "the civil action for the recovery of civil liability arising from the offense charged." [3] This is rooted in Article 100 of the RPC which provides, "[e]very person criminally liable

for a felony is also civilly liable." Further, it is doctrinal that an act or omission may constitute both a cause of action in a civil case, as well as an element of, or a criminal offense of itself.

Section 1, Rule 111 of the Rules of Criminal Procedure provides:

Section 1. Institution of criminal and civil actions. — (a) When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

The reservation of the right to institute separately the civil action shall be made before the prosecution starts presenting its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation.

When the offended party seeks to enforce civil liability against the accused by way of moral, nominal, temperate, or exemplary damages without specifying the amount thereof in the complaint or information, the filing fees thereof shall constitute a first lien on the judgment awarding such damages.

Where the amount of damages, other than actual, is specified in the complaint or information, the corresponding filing fees shall be paid by the offended party upon the filing thereof in court.

Except as otherwise provided in these Rules, no filing fees shall be required for actual damages.

No counterclaim, cross-claim or third-party complaint may be filed by the accused in the criminal case, but any cause of action which could have been the subject thereof may be litigated in a separate civil action. (1a)

(b) The criminal action for violation of Batas Pambansa Blg. 22 shall be deemed to include the corresponding civil action. No reservation to file such civil action separately shall be allowed.

Upon filing of the aforesaid joint criminal and civil actions, the offended party shall pay in full the filing fees based on the amount of the check involved, which shall be considered as the actual damages claimed. Where the complaint or information also seeks to recover liquidated, moral, nominal, temperate or exemplary damages, the offended party shall pay additional filing fees based on the amounts alleged therein. If the amounts are not so alleged but any of these damages are subsequently awarded by the court, the filing fees based on the amount awarded shall constitute a first lien on the judgment.

Where the civil action has been filed separately and trial thereof has not yet commenced, it may be consolidated with the criminal action upon application with the court trying the latter case. If the application is granted, the trial of both actions shall proceed in accordance with section 2 of this Rule governing consolidation of the civil and criminal actions.

As elucidated by the Court in *Casupanan v. Laroya*:^[4]

Under Section 1 of the present Rule III, what is "deemed instituted" with the criminal action is only the action to recover civil liability arising from the crime or ex delicto. All the other civil actions under Articles 32, 33, 34[,] and 2176 of the Civil Code are no longer "deemed instituted," and may be filed separately and prosecuted independently even without any reservation in the criminal action. The failure to make a reservation in the criminal action is not a waiver of the right to file a separate and independent civil action based on these articles of the Civil Code. The prescriptive period on the civil actions based on these articles of the Civil Code continues to run even with the filing of the criminal action. Verily, the civil actions based on these articles of the Civil Code are separate, distinct[,] and independent of the civil action "deemed instituted" in the criminal action.^[5]

To clarify, however, the injured party has to choose the remedy of which to enforce a claim in the event of favorable decisions in both actions. This is because Article 2177 of the Civil Code bars double recovery. This is

consistent with the Court's ruling in *Safeguard Security Agency, Inc. v. Tangco*:^[6]

An act or omission causing damage to another may give rise to two separate civil liabilities on the part of the offender, i.e., (1) civil liability *ex delicto*, under Article 100 of the Revised Penal Code^[7] and (2) independent civil liabilities, such as those (a) not arising from an act or omission complained of as a felony, e.g., culpa contractual or obligations arising from law under Article 31 of the Civil Code, intentional torts under Articles 32 and 34, and culpa aquiliana under Article 2176 of the Civil Code; or (b) where the injured party is granted a right to file an action independent and distinct from the criminal action under Article 33 of the Civil Code. Either of these liabilities may be enforced against the offender subject to the caveat under Article 2177 of the Civil Code that the offended party cannot recover damages twice for the same act or omission or under both causes.^[7] (Emphasis and citation omitted)

Considering that claims which are not for liability *ex delicto* are not fused or deemed to have been impliedly instituted with the criminal action, there is even no need to reserve the right to prosecute them separately. However, while the civil and criminal liabilities may co-exist, the existence of one is not dependent on the existence of the other. To remember, the extinction of the penal action does not carry with it extinction of the civil action. The civil action based on delict may be deemed extinguished if there is a finding in a final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist.^[8] Concomitantly, where civil liability is adjudged in the judgment in the fused action, this civil liability may include restitution, reparation of the damage caused, and indemnification for consequential damages.^[9]

The above discussion is the very reason why the Rules of Court requires a judgment of acquittal to affirmatively state "whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt."^[10] An express finding or declaration that the acquittal is based on reasonable doubt will indubitably support the continuing vitality of the civil action for damages *ex delicto* despite the judgment of acquittal. In *Manantan v. Court of Appeals*,^[11] the Court explained the two kinds of acquittal and their effects on the civil liability of the accused:

Our law recognizes two kinds of acquittal, with different effects on the civil liability of the accused. First is an acquittal on the ground that the accused is not the author of the act or omission complained of. This instance closes the door to civil liability, for a person who has been found to be not the perpetrator of any act or omission cannot and can never be held liable for such act or omission. There being no delict, civil liability *ex delicto* is out of the question, and the civil action, if any, which may be instituted must be based on grounds other than the delict complained of. This is the situation contemplated in Rule III of the Rules of Court. The second instance is an acquittal based on reasonable doubt on the guilt of the accused. In this case, even if the guilt of the accused has not been satisfactorily established, he is not exempt from civil liability which may be proved by preponderance of evidence only.^[12] (Citations omitted)

If an accused is acquitted on the ground that he or she is not the author of the act or omission complained of, then he or she is absolved as well of civil liability *ex delicto*. However, the confusion lies when the accused is acquitted by reason of failure of the prosecution to prove his or her guilt beyond reasonable doubt. In such a situation, the accused is acquitted of the crime charged but may still be held civilly liable. This is the dilemma that the Court is confronted with in the present case.

Case law with respect to filing of separate civil actions when the accused is acquitted

In *People v. Pantig*,^[13] the Court affirmed the acquittal of Pantig but ruled that his civil liability is based on a contract and did not arise from the criminal act and, hence, may not be enforced in the criminal case.

Likewise, in *People v. Singson*,^[14] where the Court found that the evidence against Singson was not sufficient to establish his guilt, the Court acquitted Singson but without prejudice to the pursuit of any civil liability that may

be established against her in a separate civil case.

Further, in *Dy v. People (Dy)*,^[15] the Court ruled that whenever the elements of estafa are not established and the delivery of any personal property was made pursuant to a contract, any civil liability arising from the estafa cannot be awarded in the criminal case. This is because the civil liability arising from the contract is not civil liability *ex delicto*, which arises from the same act or omission constituting the crime. Civil liability *ex delicto* is the liability sought to be recovered in a civil action deemed instituted with the criminal case precisely because it springs from the criminal act.

Dy instructs that where the civil liability arises from an entirely different source of obligation, it is not the type of civil action deemed instituted in the criminal case and consequently must be filed separately. This is consistent with the fact that whenever the court makes a finding that the elements of a crime do not exist, it effectively says that there is no crime. Necessarily, there can likewise be no act or omission that could give rise to civil liability arising from an act or omission that has been declared inexistent. Therefore, civil liability *ex delicto* cannot be awarded as it cannot be sourced from something that does not exist.

In *Spouses Tayamen v. People*,^[16] the Court categorically stated that the award of civil liability *ex contractu* cannot be made in a criminal case where the elements of the crime were not duly proven.

Recently, the Court in *Wong v. Wong*,^[17] citing Dy, ruled that when there is no civil liability *ex delicto* but only civil liability *ex contractu*, the civil liability must be litigated in a separate proceeding.

However, in *Sapiera v. Court of Appeals*,^[18] the Court ordered the dismissal of the criminal cases against Sapiera, but ruled that such dismissal will not erase her civil liability since the dismissal was due to insufficiency of evidence and not from a declaration by the court that the fact from which the civil action might arise did not exist. The Court adjudged Sapiera's civil liability in the same criminal case.

Likewise, in *Rimando v. Spouses Aldaba*,^[19] the Court ruled that Rimando's acquittal in the estafa case does not necessarily absolve her from any civil liability and held Rimando liable to Spouses Aldaba for the amount of PHP 500,000.00 also in the same case.

The Court has thus been inconsistent with respect to the filing of a separate civil action in case the accused is acquitted based on insufficiency of evidence when the elements of the crime are not properly established. It is therefore an opportune time for the Court to adopt a consistent and uniform rule as to when civil liability not arising from the crime may be adjudged in the same criminal proceeding or ought to be litigated in a separate civil action.

I agree with Chief Justice Alexander G. Gesmundo's (Chief Justice Gesmundo) position that when the accused is acquitted regardless of the reason, i.e., he or she did not commit the offense or proof is insufficient, then there is no crime to speak of. Hence, there can be no civil liability *ex delicto*. From the name itself, civil liability *ex delicto* is civil liability arising from the delict, a crime. Thus, when an accused is acquitted there is no crime to speak of and, therefore, there can be no civil liability adjudged in that instance, whatever be the reason. It is worth pointing out here that a lot of the confusion stems from the distinction between the types of acquittal.

Likewise, I agree with Chief Justice Gesmundo that in instances when an accused is acquitted, civil liability may be awarded based on other sources as provided for under Article 1157 of the Civil Code when the facts and evidence on record already so warrant. However, I think the standard required for allowing it by Chief Justice Gesmundo, as "intimately related to the criminal liability," needs to be further refined and fleshed out. Indeed, the question of whether civil liability may be awarded in the same proceeding is a question of fact that will, as a matter of procedural due process, depend on whether the civil liability of the accused was raised during trial and

whether the adverse party was heard on this point. This is consistent with the Court En Banc's ruling in *Padilla v. Court of Appeals*[20] (*Padilla*):

The judgment of acquittal extinguishes the liability of the accused for damages only when it includes a declaration that the facts from which the civil might arise did not exist. Thus, the civil liability is not extinguished by acquittal where the acquittal is based on reasonable doubt [] as only preponderance of evidence is required in civil cases; where the court expressly declares that the liability of the accused is not criminal but only civil in nature [] as, for instance, in the felonies of estafa, theft, and malicious mischief committed by certain relatives who thereby incur only civil liability[]; and, where the civil liability does not arise from or is not based upon the criminal act of which the accused was acquitted[. . .].

. . . .

There appear to be no sound reasons to require a separate civil action to still be filed considering that the facts to be proved in the civil case have already been established in the criminal proceedings where the accused was acquitted. Due process has been accorded the accused. He was, in fact, exonerated of the criminal charge. The constitutional presumption of innocence called for more vigilant efforts on the part of prosecuting attorneys and defense counsel, a keener awareness by all witnesses of the serious implications of perjury, and a more studied consideration by the judge of the entire records and of applicable statutes and precedents. To require a separate civil action simply because the accused was acquitted would mean needless clogging of court dockets and unnecessary duplication of litigation with all its attendant loss of time, effort, and money on the part of all concerned.[21] (Citations omitted)

The Court in *Padilla* further held:

There is nothing contrary to the Civil Code provision in the rendition of a judgment of acquittal and a judgment awarding damages in the same criminal action. The two can stand side by side. A judgment of acquittal operates to extinguish the criminal liability. It does not, however, extinguish the civil liability unless there is clear showing that the act from which civil liability might arise did not exist.

. . . .

A separate civil action may be warranted where additional facts [must] be established or more evidence must be adduced or where the criminal case has been fully terminated and a separate complaint would be just as efficacious or even more expedient than a timely remand to the trial court where the criminal action was decided for further hearings on the civil aspects of the case. The offended party may, of course, choose to file a separate action. These do not exist in this case. Considering moreover the delays suffered by the case in the trial, appellate, and review stages, it would be unjust to the complainants in this case to require at this time a separate civil action to be filed.[22]

Similar to the present case, in *Padilla*, the civil liability of the petitioner therein was based on a different source of obligation other than civil liability *ex delicto*.

In *Guasch v. Dela Cruz*,[23] the Court pointed out that when the facts to be proven in a civil case have already been established in the criminal proceedings where the accused was acquitted, a separate civil action is no longer required to be filed considering that due process has already been accorded to the accused and the evidence to make a determination of the accused's civil liability is already at the disposal of the court. Further, in *Dayap v. Sendiong*,[24] the Court held as follows:

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. 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 or where the accused did not commit the acts or omission imputed to him.[25]

From the foregoing, therefore, I humbly opine that (1) if the accused is acquitted on the ground that there is no crime, the civil action deemed instituted with the criminal case cannot prosper because there is no delict from which any civil obligation *ex delicto* may be sourced and (2) if there is a finding in a final judgment in the criminal action that the civil liability is based on a different source of obligation, which was properly raised and ventilated during trial and not based on civil liability *ex delicto*, the civil liability should be adjudicated in the same action and there is no need for a separate civil proceeding without prejudice to the rights of third parties not impleaded in the action.

As elucidated in *Gayos v. Gayos*,^[26] it is a cherished rule of procedure that a court should always strive to settle the entire controversy in a single proceeding leaving no root or branch to bear the seeds of future litigation. Thus, I respectfully suggest in order to have a just, speedy, and inexpensive disposition of civil claims arising from sources other than civil liability *ex delicto*, if the court already has the necessary tools to make a determination of the civil liability arising from sources other than civil liability *ex delicto* and the affected parties have been given their day in court, then there is no reason to require another litigation to be commenced, which will not only add to docket congestion, but will also further burden our already burdened courts, including this Court.

Considering the foregoing, I concur in the findings of the ponencia of Associate Justice Ricardo R. Rosario that the Court may grant the award to private complainant Pedro Joel Caspillo (Caspillo) of the civil liability arising from another source of obligation in the same criminal action. By preponderance of evidence, this civil liability was proven when petitioners Spouses Enrique and Marites Llonillo failed to pay Caspillo the loan amounting to PHP 300,000 based on a contract, i.e., their duly executed Memorandum of Agreement.

Ultimately, I vote to GRANT the Petition, ACQUIT the petitioners for failure of the prosecution to prove their guilt beyond reasonable doubt and ORDER petitioners to pay private complainant Pedro Joel Caspillo the principal amount of PHP 300,000.00 plus legal interest of 12% per annum from April 10, 2013 until June 30, 2013 and 6% per annum from July 1, 2013 until the finality of this Decision. The total amount due shall likewise earn interest of 6% per annum from the finality of the Decision until full payment.

[1] Javier, A Short Study of the Philippine Revised Penal Code, 14 Phil. L.J. 161 (1943).

[2] *Id.*

[3] Bautista, The Confusing Fusion of a Civil Claim in a Criminal Proceeding, 79 Phil. L.J. 640 (2004).

[4] 436 Phil. 582 (2002) [Per J. Carpio, Third Division].

[5] *Id.* at 596.

[6] 540 Phil. 86 (2006) [Per J. Austria-Martinez, First Division].

[7] *Id.* at 98–99.

[8] *Mendoza v. Alcala*, 112 Phil. 929 (1961) [Per J. Natividad, En Banc].

[9] Philippine Revised Penal Code, *supra* note 1.

[10] 749 Phil. 531, 538 (2014) [Per J. Perlas-Bernabe, First Division].

- [11] 403 Phil. 298 (2001) [Per J. Quisumbing, Second Division].
- [12] Id. at 308–309.
- [13] 97 Phil. 748 (1955) [Per J. Labrador, En Banc].
- [14] 290 Phil. 9 (1992) [Per J. Campos, Jr., Second Division].
- [15] 792 Phil. 672 (2016) [Per J. Jardeleza, Third Division].
- [16] G.R. No. 246986, April 28, 2021 [Per J. Delos Santos, Third Division].
- [17] G.R. No. 237159, September 29, 2021 [Per J. Inting, Second Division].
- [18] 373 Phil. 148 (1999) [Per J. Bellosillo, Second Division].
- [19] 745 Phil. 358 (2014) [Per J. Perlas-Bernabe, First Division].
- [20] 214 Phil. 492 (1984) [Per J. Gutierrez, Jr., En Banc].
- [21] Id. at 500–502.
- [22] Id. at 505–506.
- [23] 607 Phil. 271 (2009) [Per C.J. Puno, First Division].
- [24] 597 Phil. 127 (2009) [Per J. Tinga, Second Division].
- [25] Id. at 141.
- [26] 160-A Phil. 285 (1975) [Per J. Aquino, Second Division].

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