

LUCINO ALMEIDA CHAN Tanco ET AL., PLAINTIFFS AND APPELLANTS, VS. EDUARDO ABAROA, DEFENDANT AND APPELLEE.

G.R. No. 2993. March 27, 1907

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PER CURIAM:

The following conclusions of this court are in enlargement of and in addition to those findings contained in the judgment appealed from, as indicated in the decision of this court rendered in civil cause No. 2993 between the parties herein:

The subject-matter and cause of the civil action instituted by the plaintiffs were the same as attributed by one of them to the defendant for having set fire to and burned the store and camarin (warehouse) with all the effects contained in the same, the property of the plaintiffs. This constituting the crime of arson, it was made the object of a criminal prosecution brought against said defendant Eduardo Abaroa Chan Em; the civil action was brought notwithstanding the accused was acquitted by the court below, which judgment was affirmed by this court by reason of lack of satisfactory proof showing the participation of the accused in the criminal act.

This acquittal, which should be understood as being full and complete, as prescribed in the last paragraph of rule 51 of the Provisional Law for the application of the present Penal Code and in conformity with article 840 of the Revised Compilation and article 144 of the Law of Criminal Procedure of 1882, necessarily implies the innocence and freedom from responsibility of the accused in that it has not been duly proved that he was the author of the fire.

It is not shown that there is any other ground upon which to base the action brought against the defendant for damages, and indemnity for the same, and praying for final judgment against said defendant, than the actual act of arson, which act, if it were intentional, necessarily constitutes the offense of the same name, and could only be considered otherwise if it were caused accidentally.

Article 742 of the said Law of Criminal Procedure of 1882, referred to among others in rule 95 of the said Provisional Law, provides: "In said judgment there shall be decided all questions arising in the trial, and the accused shall be condemned or acquitted not only of the principal offense and offenses connected therewith but also of any incidental misdemeanors which may have been proven in the case; and the tribunal, at this stage of the proceedings, can not dismiss the case in respect to the accused persons who ought not to be condemned.

"All questions referring to civil liability and responsibility which arise in the trial shall also be decided in the said judgment."

The defendant Abaroa having been acquitted of the charge against him as the supposed author of the crime of arson, can not be made a defendant, nor can judgment be rendered against him, by reason of a civil action, for the payment of the amount of the loss and damages caused to the plaintiffs by said fire.

The supreme court of Spain applying the legislation still observed in this country, (section 1 of General Orders, No. 58) in its decision of April 28, 1884, established the doctrine: "That the decision acquitting in full the accused

persons settles in an explicit or tacit manner all the points in question, not only in the accusation but those of the defense, all of which is the established jurisprudence of the supreme tribunal." In conformity with this doctrine, and in accordance with law, he, who was then the accused and now the defendant, has also been acquitted from civil liability and responsibility as well as from criminal responsibility.

It is a logical sequence of the rule established in article 17 of the Penal Code, that "all persons criminally responsible for a crime or misdemeanor are civilly responsible as well," and that exemption from criminal liability carries with it exemption from civil responsibility also.

The supreme court of Spain in its decision of January 3, 1877, holds the same doctrine: "In order to decree or find as to the civil liability or responsibility in a case, it is necessary that the same came from—that is to say, was a consequence of—the criminal liability; and therefore, if the accused has been acquitted of the crime, the court that orders him, by reason of the same, to pay a determined or fixed indemnity, violates this article." (Art. 17 of the Penal Code.)

The same high court, in another decision of December 20, 1882, establishes the following: "That those who are not criminally responsible for a crime or misdemeanor can not be made civilly responsible, in accordance with the provisions of article 18 of the Penal Code (art. 17 of the Philippine Penal Code), and the court, not having taken this into consideration in its judgment, infringed said articles 18 and 21, and commits an error of law, as is shown in section 4 of article 849 of the Revised Compilation." It is not possible to conceive, if it is not permitted to find against an accused acquitted of civil responsibility in a criminal case, how he can be held responsible for the same in a civil case in the absence of any law authorizing the same, and this is an inexplicable counter-course.

It can not be conceived legally that an act of setting fire executed intentionally is not constitutive of the crime of arson, and that its author, without being found personally responsible according to the penal law, is to be only civilly responsible therefor.

The reparation for damage and the indemnity for losses suffered and claimed by the plaintiffs against the defendant are derived from the act itself in the supposition that the fire was caused intentionally, of which accusation the said defendant was acquitted in a criminal cause, and it follows that if the defendant herein was not the author of the crime, under no condition can he be held responsible and liable for the evil and loss occasioned by the criminal act.

Instituting a criminal action only, it will be understood, brings the civil action as well, unless the damaged or prejudiced person waives the same or expressly reserves the right to institute the civil action after the termination of the criminal case, if there be any reason therefor. (Art. 112 of the said Law of Criminal Procedure.)

The right to bring the civil action, as reserved by the person damaged or prejudiced, after the termination of the criminal case, is only permitted, if there be any reason therefor, and so says the law, in the event that the judgment rendered in the criminal cause is a finding of guilt against the accused; but if the accused be acquitted, then the complaint in the civil action must be based on some fact and or cause distinct and separate from the criminal act itself.

For this reason article 114 of the same Law of Procedure provides: "When a criminal proceeding is instituted for the judicial investigation of a crime or misdemeanor, no civil action arising from the same act can be prosecuted; but the same shall be suspended, if there be one, in whatever stage or state it may be found, until final sentence in the criminal proceeding is pronounced.

"To prosecute a penal action it shall not be necessary that a civil action arising from the same crime or misdemeanor be previously instituted."

It is to be remembered that the dismissal or dropping of a penal action, as we find it in article 116 of the same Law of Procedure, is not the same as the acquittal of the accused for any of the reasons and causes designated in rule 51 of the said Provisional Law; and for this reason the said article says that said dismissal does not carry with it the corresponding right to proceed against the person so obligated for the restitution, reparation, or payment of indemnity, which could not be verified against the accused acquitted of the offense out of which the civil action originated.

It has not been alleged or shown by the plaintiffs, as a cause of action instituted civilly against the defendant, that the aforesaid fire was caused through any fault or negligence on the part of the defendant, nor is there shown any motive or cause distinct from that act, the object of the case already terminated, in accordance with the provisions of articles 1093, 1902, and 1903 of the Civil Code; yet they, the plaintiffs, seek to obtain and make effective such liability by reason of the same offense and notwithstanding the acquittal of the defendant and the provisions of article 1092 of the same code, which provides that all civil obligations arising from crimes or misdemeanors shall be governed by the provisions of the Penal Code, all of which have already been mentioned.

The reservation set out in the judgment of the court below, and affirmed by a decision of this court, is taken to mean and refers only to other causes and reasons upon which to base a civil action arising from and in consequence of said fire, and under no condition can it be understood to mean the reservation of any civil action originating out of and from the same crime or offense and brought against the defendant, who has already been acquitted of the same under a final decision.

For these reasons, in addition to those set forth in the judgment appealed from, the said judgment is affirmed.

Arellano, C. J., Torres, Mapa, Willard, and Tracey, JJ., concur.

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