THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. BENEDICTO URSUA, DEFENDANT AND APPELLANT.

G. R. No. 40198. August 01, 1934

Ponente: AVANCEÃ‘A, C.J.

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AVANCEÃ‘A, C.J.:

In the Court of First Instance of Camarines Sur, an information was filed against Benedicto Ursua, charging him with the crime of homicide through reckless imprudence. In the course of the trial, in which the private prosecution intervened, and after the evidence had been taken, the trial court found the following facts to be proven.

On November 17, 1932, in the municipality of Libmanan, Province of Camarines Sur, the accused, who was acting as municipal president, ordered the policeman Alejandro Quiro to ask the municipal president for the latter's revolver. When Alejandro Quiro delivered the revolver to the accused, the latter, noticing that it was not loaded, requested the chief of police to load it. The chief of police loaded it with four cartridges and delivered it to the accused, with the cylinder in proper place and the trigger locked. Shortly after the accused had taken the revolver in his hands, a discharge was heard which hit Alejandro Quiro in the abdomen, resulting in his death.

Upon these facts, the trial court found the accused guilty of the crime of homicide through reckless imprudence, as charged in the information, and sentenced him to one year and one day of prision correccional. The court, however, failed to enter judgment with respect to the civil liability of the accused in favor of the heirs of the deceased.

The judgment of the trial court was rendered on July 8, 1933, and the accused was notified thereof on July 13th, on which date the accused filed notice of appeal. On the 18th of the same month, the private prosecution filed with the court a motion for reconsideration of its judgment on the ground that it failed to make any finding relative to the civil liability of the accused and to sentence him to indemnify the heirs of the deceased. The trial court, believing that, because the cause had been appealed by the accused and said appeal had been allowed, it had already lost its jurisdiction to pass upon the motion of the private prosecution, denied the said motion. The private prosecution excepted to this ruling and appealed therefrom.

In this instance, this court, in its resolution dated November 28, 1933, declared the appeal of the accused abandoned. Therefore, the only question left to be decided is the appeal of the private prosecution with regard to the civil liability of the accused.

The trial court's resolution that, because the cause had been appealed by the accused, it had lost its jurisdiction to pass upon the motion for reconsideration filed by the private prosecution nine days after the date of the judgment, is unfounded.

The right of the injured persons in an offense to take part in its prosecution and to appeal for purposes of the civil liability of the accused (section 107, General Orders, No. 58), necessarily implies that such right is protected in

the same manner as the right of the accused to his defense. If the accused has the right within fifteen days to appeal from the judgment of conviction, the offended party should have the right within the same period to appeal from so much of the judgment as is prejudicial to him, and his appeal should not be made dependent on that of the accused. If upon appeal by the accused the court altogether loses its jurisdiction over the cause, the offended party would be deprived of his right to appeal, although fifteen days have not yet elapsed from the date of the judgment, if the accused files his appeal before the expiration of said period. Therefore, if the court, independently of the appeal of the accused, has jurisdiction, within fifteen days from the date of the judgment, to allow the appeal of the offended party, it also has jurisdiction to pass upon the motion for reconsideration filed by the private prosecution in connection with the civil liability of the accused.

As to the rest, it was an error for the court not to have entered judgment with respect to the civil liability of the accused (Springer vs. Odlin, 3 Phil., 344). Section 107 of General Orders, No. 58 expressly imposes upon the courts the duty of entering judgment with respect to the civil liability arising from the offense, if no reservation has been made to ventilate it in a separate action.

Wherefore, it is hereby ordered that the case be remanded to the court of origin for the purpose of determining the civil liability of the accused (U. S. vs. Heery, 25 Phil., 600, 602). So ordered.

Street, Abad Santos, Vickers, and Diaz, JJ., concur.

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