

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF, VS. ANTONIO BATALLER, DEFENDANT AND APPELLEE. CONSTANCIO BARCOMA IN BEHALF OF HIS DAUGHTER SOCORRO BARCOMA, OFFENDED PARTY AND A...*G.R. No. 45545. October 28, 1938*

Ponente: ABAD SANTOS, J.

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Upon complaint filed by Constancio Barcoma in behalf of his minor daughter Socorro Barcoma, the appellee Antonio Bataller was tried and convicted by the justice of the peace of Bacacay, Province of Albay, of slight physical injuries, as defined and penalized by article 266, clause 2, of the Revised Penal Code, and sentenced to suffer ten days imprisonment, and to pay the costs of suit. From this judgment Bataller appealed to the Court of First Instance.

While the case was thus pending on appeal, the acting provincial fiscal filed a motion asking for the dismissal of the case on the ground that Bataller was not criminally liable for the act complained of. This motion was granted and the case dismissed with costs de oficio. In due time, Constancio Barcoma moved for a reconsideration of the order of dismissal, but his motion was denied. Hence this appeal.

The question presented is whether the court below erred in dismissing the case. Upon this point, section 107 of the Code of Criminal Procedure is relevant. That section contains the following provisions:

"The privileges now secured by law to the person claiming to be injured by the commission of an offense to take part in the prosecution of the offense and to recover damages for the injury sustained by reason of the same shall not be held to be abridged by the provisions of this order; but such person may appear and shall be heard either individually or by attorney at all stages of the case, and the court upon conviction of the accused may enter judgment against him for the damages occasioned by his wrongful act. It shall, however, be the duty of the promoter fiscal to direct the prosecution, subject to the right of the person injured to appeal from any decision of the court denying him a legal right."

From the foregoing provisions of law, it is clear that the person claiming to be injured by the commission of an offense has the right to be heard at all stages of the case, and he can appeal from any decision denying him that right.

The case now before us was dismissed by the court below without giving the injured party opportunity to be heard. He was thus deprived of the right granted him by the codal provisions above quoted. His right to appeal from the order of dismissal is clear. This conclusion is in line with the decision of this court in *Gonzalez vs. Court of First Instance of Bulacan* (36 Off. Gaz., 2059). The crime of slight physical injuries involves civil liability. The injured party has the right to present evidence to support a claim for damages.

The order appealed from is set aside, and the case is remanded to the court below for further proceedings in

conformity with this opinion. So ordered.

Avanceña, C. J., Villa-Real, Diaz, Laurel, and Concepcion, JJ., concur.

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