

**ELADIA MAGTIBAY, DONATO MAGTIBAY AND JOSE MAGTIBAY,
PLAINTIFFS AND APPELLEES, VS. ROWEL TIANGCO, DEFENDANT
AND APPELLANT.***G.R. No. 49053, February 28, 1944*

Ponente: BOCOBO, J.

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On December 17, 1937, defendant-appellant herein, Rowel Tiangco, who was then a minor under eighteen years of age, pleaded guilty to an information for homicide through reckless negligence, in that he had recklessly driven an auto- mobile and thereby caused the death of Mateo Magtibay, of whom plaintiffs-appellees are the lawful heirs. The Court of First Instance of Batangas found Rowel Tiangco guilty as charged, but as he was under eighteen years of age, the sentence was suspended, and he was committed to the care and custody of Attorney Gavino S. Abaya, until Tiangco would reach his majority, subject to the supervision of the Superintendent of Public Schools of the Province. A little over one year and a half later, on July 27, 1939, Attorney Gavino S. Abaya in view of Rowel Tiangco's good conduct, recommended the dismissal of the case. The Court of First Instance dismissed the criminal case, but reserved such right as the heirs of the deceased might have to recover damages in a civil action against said Tiangco. Accordingly, the civil action in the instant case was filed on September 2, 1941, against defendant-appellant herein, for damages in the sum of P2,000 for the death of Mateo Magtibay. The Court of First Instance gave judgment for plaintiffs for P2,000 as damages. Hence this appeal.

We believe the court a quo committed no error in rendering judgment for plaintiffs. The suspension of the sentence under article 80 of the Revised Penal Code, after appellant herein had pleaded guilty, did not wipe out his guilt, but merely put off the imposition of the corresponding penalty, in order to give the delinquent minor a chance to be reformed. When, therefore, after he had observed good conduct, the criminal case was dismissed, this did not mean that he was exonerated from the crime charged, but simply that he would suffer no penalty. Nor did such dismissal of the criminal case obliterate his civil liability for damages. The Court of First Instance of Batangas in dismissing the criminal case correctly reserved the right of plaintiffs herein to bring a civil action for damages.

Counsel for defendant-appellant contends that a minor can not be held civilly liable for his acts. However, whether we view the present civil action as one under the Penal Code or under the Civil Code, defendant-appellant is liable in damages. If the theory of the civil action is civil liability arising from the crime of homicide through reckless negligence, defendant-appellant is bound to pay damages because article 100 of the Revised Penal Code provides that "Every person criminally liable for a felony is also civilly liable." Defendant herein was found guilty of the crime of homicide through reckless negligence. The suspension of the sentence did not exculpate him from the crime, as already stated.

If, on the other hand, the theory of the civil action is culpa aquiliana or tort, the minority of defendant-appellant does not free him from responsibility for damages because article 32, paragraph 2, of the Civil Code provides that

"La menbr edad, la demencia 6 imbecilidad, la sordomudez, la prodigalidad y la interdiccion civil no son mas que restricciones de la personalidad juridica. Los que se hallaren en alguno de esos estados son susceptibles de derechos, y aun de obligaciones cuando estas nacen de los hechos 6 de relaciones entre los bienes del incapacitado y un tercero,"

Manresa says that said article 32 renders minors liable-for culpa aquiliana under article 1902, Civil Code. (See his. comment on Article 32.) Moreover, it is established that "Liability of an infant in a civil action for his torts is imposed as a mode, not of punishment, but of compensation. If property has been destroyed or other loss occasioned by a wrongful act, it is just that the loss should fall upon the estate of the wrongdoer rather than on that of a guiltless person, and that without reference to the question of moral guilt. Consequently, for every tortious act of violence or other pure tort, the infant tort-feasor is liable in a civil action to the injured person in the same manner and to the same extent as an adult" (27 A.J., p 812.)

The judgment appealed from is affirmed, with costs against appellant. So ordered.

Yulo, C. J., Moran, Horrilleno, Ozaeta, and Paras, JJ.,concur.

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