

HEIRS OF PEDRO TAYAG, SR., PETITIONERS, VS. HONORABLE FERNANDO S. ALCANTARA, PHILIPPINE RABBIT BUS LINES, INC. AND ROMEO VILLA Y CUNANAN, RESPONDENTS.

G.R. No. 50959. July 23, 1980

Ponente: CONCEPCION JR., J.

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CONCEPCION JR., J.:

This is a petition for certiorari, premised upon the following facts:

On September 25, 1974, the petitioners, heirs of Pedro Tayag, Sr., namely: Crisanta Salazar, Pedro Tayag, Jr., Renato Tayag, Gabriel Tayag, Corazon Tayag and Rodolfo Tayag, filed with the Court of First Instance of Tarlac, Branch I, presided over by the respondent Judge, a complaint[1] for damages against the private respondents Philippine Rabbit Bus Lines, Inc. and Romeo Villa y Cunanan -- docketed therein as Civil Case No. 5114 -- alleging among others that in the afternoon of September 2, 1974, while Pedro Tayag Sr. was riding on a bicycle along MacArthur Highway at Bo. San Rafael, Tarlac, Tarlac on his way home, he was bumped and hit by a Philippine Rabbit Bus bearing Body No. 1107 and Plate No. YL 604 PUB '74, driven by Romeo Villa, as a result of which he sustained injuries which caused his instantaneous death. In due time, the private respondents filed their answer,[2] admitting some allegations and denying the other allegations of the complaint.

Thereafter, the private respondents filed a motion to suspend the trial[3] dated April 30, 1975, on the ground that the criminal case[4] against the driver of the bus Romeo Villa was still pending in said court, and that Section 3, Rule 111 of the Revised Rules of Court enjoins the suspension of the civil action until the criminal action is terminated. The respondent Judge granted the motion, and consequently, suspended the hearing of Civil Case No. 5114.[5]

On October 25, 1977, the respondent Judge rendered a decision[6] in Criminal Case No. 836, acquitting the accused Romeo Villa of the crime of homicide on the ground of reasonable doubt.

Thereafter, the private respondents filed a motion to dismiss[7] Civil Case No. 5114 on the ground that the petitioners have no cause of action against them, the driver of the bus having been acquitted in the criminal action. The petitioners opposed the motion[8] alleging that their cause of action is not based on crime but on quasi delict.

Acting upon the said motion as well as the opposition thereto, the respondent Judge issued an order[9] dated April 13, 1978, dismissing the complaint in Civil Case No. 5114.

The petitioners moved to reconsider[10] however, the same was denied by respondent Judge in his order[11] dated May 30, 1979.

Hence, the petitioners interposed the present petition for certiorari, to annul and set aside the order of respondent Judge dated April 13, 1977, claiming that the respondent Judge acted without or in excess of his jurisdiction and/or with grave abuse of discretion in issuing the disputed order, and that there is no plain, speedy and adequate remedy in the ordinary course of law except thru the present petition.

After the private respondents had filed their comment,[12] this Court Resolved to consider the said comment as answer to the petition, and the case was deemed submitted for decision on September 3, 1979.

The only issue to be resolved in the instant case is whether or not the respondent Judge acted without or in excess of his jurisdiction and/or with grave abuse of discretion in dismissing Civil Case No. 5114.

The petition is meritorious. Article 31 of the Civil Code provides as follows:

"Art. 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."

Evidently, the above quoted provision of the Civil Code refers to a civil action based, not on the act or omission charged as a felony in a criminal case, but one based on an obligation arising from other sources,[13] like quasi delict.[14]

In the case at bar, the allegations of the complaint clearly show that petitioners' cause of action was based upon a quasi delict.[15] Thus, the complaint alleged among others:

xx xx xx xx xx xx xx

"4. That on September 2, 1974, at about 6:00 o'clock in the afternoon at Sitio Pag-asa, Bo. San Rafael, Tarlac, Tarlac, along Mac-Arthur Highway and while riding on a bicycle on his way home to Bo. San Sebastian, Tarlac, Tarlac, Pedro Tayag, Sr. was bumped and hit by a Philippine Rabbit Bus bearing Body No. 1107 and Plate No. YL 604 PUB '74 and as result of which he sustained physical injuries which cause his instantaneous death and the bicycle he was riding on was damaged and destroyed;

"5. That the Philippine Rabbit Bus x x x x was at the time of the accident being driven by defendant Romeo Villa y Cunanan in a faster and greater speed than what was reason-able and proper and in a grossly negligent, careless, reckless and imprudent manner, without due regards to injuries to persons and damage to properties and in violation of traffic rules and regulations;

"6. That defendant Philippine Rabbit Bus Lines, Inc. has failed to exercise the diligence of a good father of a family in the selection and supervision of its employees, particularly defendant Romeo Villa y Cunanan, otherwise the accident in question which resulted in the death of Pedro Tayag, Sr. and damage to his property would not have occurred;"

xx xx xx xx xx xx

All the essential averments for a quasi delictual action are present, namely: (1) an act or omission constituting fault or negligence on the part of private respondents; (2) damage caused by the said act or omission; (3) direct causal relation between the damage and the act or omission; and (4) no pre-existing contractual relation between the parties. In the case of *Elcano vs. Hill*,[16] this Court held that:

"x x x, a separate civil action lies against the offender in a criminal act, whether or not he is criminally prosecuted and found guilty or acquitted, provided that the offended party is not allowed, if he is actually charged also criminally, to recover damages on both scores, and would be entitled in such eventuality only to the bigger award of the two, assuming the awards made in the two cases vary. In other words, the extinction of civil liability referred to in Par. (e), Section 3, Rule 111, refers exclusively to civil liability founded on Article 100 of the Revised Penal Code, whereas the civil liability for the same act considered as a quasi-delict only and not as a crime is not extinguished even by a declaration in the criminal case that the criminal act charged has not happened or has not been committed by the accused. Briefly stated, We here hold, in reiteration of *Garcia* that culpa aquiliana includes voluntary and negligent acts which may be punishable by law."

The petitioners' cause of action being based on a quasi-delict, the acquittal of the driver, private respondent Romeo Villa, of the crime charged in Criminal Case No. 836 is not a bar to the prosecution of Civil Case No. 5114 for damages based on quasi-delict.[17]

In the light of the foregoing, We hold that respondent Judge acted with grave abuse of discretion amounting to lack of jurisdiction in dismissing Civil Case No. 5114.

WHEREFORE, the order of dismissal should be, as it is hereby set aside, and the case is remanded to the lower court for further proceedings, with costs against the private respondents.

SO ORDERED.

Abad Santos and De Castro,[*] JJ., concur.

Barredo, (Chairman) J., I concur and also in the opinion of Justice Aquino. I just like to add that in my view the proceeding and trial in Civil Case No. 5114 should not have been suspended at all just because of the filing of the criminal case.

Aquino, J., see concurrence.

[*] Mr. Justice Pacifico P. de Castro, a member of the First Division was designated to sit in the Second Division.

[1] Annex "A", Rollo, p. 9.

[2] Annex "B", Rollo, p. 14.

[3] Annex "C", Rollo, p. 17.

[4] Criminal Case No. 836, entitled "People of the Philippines, plaintiff, versus Romeo Villa, accused."

[5] Annex "D", Rollo, p. 19.

[6] Annex "E", Rollo, p. 20.

[7] Annex "F", Id., p. 28.

[8] Annex "G", Id., p. 32.

[9] Annex "H", Id., p. 35.

[10] Annex "I", Id., p. 36.

[12] Rollo, p. 41.

[13] Bernaldez, Sr. vs. Bohol Land Transportation, Inc., L-18193, February 27, 1963, 7 SCRA 276.

[14] Mendoza vs. Hon. Abundio Z. Arrieta, etc., et al., L-32599, June 29, 1979.

[15] Art. 2176 of the New Civil Code, provides:

"Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi delict and is governed by the provisions of this Chapter."

[16] L-24803, May 26, 1977, 77 SCRA 98.

[17] Virata, et al. vs. Ochoa, et al., L-46179, Jan. 31, 1978; Mendoza vs. Hon. Abundio Z. Arrieta, L-32599, June

29, 1979.

CONCURRING OPINION AQUINO, J.:

I concur because petitioners' action for damages is based on article 2177 of the Civil Code, under which, according to the Code Commission, "acquittal from an accusation of criminal negligence, whether on reasonable doubt or not, shall not be a bar to a subsequent civil action, not for civil liability from criminal negligence, but for damages due to a quasi-delict or culpa aquiliana".

Article 33 of the Civil Code also justifies the petitioners' independent civil action for damages since the term "physical injuries" therein embraces death (*Dyogi vs. Yatco*, 100 Phil. 1095).

Moreover, the acquittal of Romeo Villa was based on reasonable doubt. The petitioners, as plaintiffs in the civil case, can amend their complaint and base their action also on article 29 of the Civil Code which allows an independent civil action for damages in case of acquittal on the ground of reasonable doubt.

The requirement in section 2, Rule 111 of the Rules of Court that there should be a reservation in the criminal cases of the right to institute an independent civil action is contrary to law (*Garcia vs. Florido*, L-35095, August 31, 1973, 52SCRA 420, 429).

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