

MARTIN OCAMPO ET AL., PLAINTIFFS, VS. J.C. JENKINS, JUDGE OF FIRST INSTANCE OF MANILA, AND DEAN C. WORCESTER, DEFENDANTS.*G.R. No. 5760. December 24, 1909*

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-5760/>**JOHNSON, J.:**

This was an original application made in this court, praying for a writ of prohibition against the defendants, to prohibit the Hon. J.C. Jenkins, one of the judges of the Court of First Instance of the city of Manila, from proceeding in the trial of the civil cause pending against the plaintiffs herein and from rendering a judgment in said cause against said plaintiffs, and for a preliminary injunction against said defendants, during the pendency of the action in this court.

An application for a writ of prohibition in this court in cases like the present is considered an ordinary action and must, therefore, take the course of an ordinary suit brought in this court. (*Enriquez vs. Ambler*, 2 Phil. Rep., 137; *Blanco vs. Ambler*, 3 Phil. Rep., 358.)

The only question, therefore, presented by the petition at this time is whether or not the plaintiffs are entitled to a preliminary injunction. That is, whether the facts are sufficient to justify this court in restraining the lower court from proceeding with the action pending before it by the extraordinary equitable remedy of injunction. It will be difficult to discuss the rights of the parties to the preliminary injunction, without at the same time discussing to some extent the question whether or not they would be entitled to the writ of prohibition, the principal remedy which the plaintiffs seek in the present petition.

From the petition presented, the following facts appear:

First. That there was pending in the Supreme Court on appeal a criminal cause for the crime of libel against the plaintiffs herein, Martin Ocampo, Teodoro M. Kalaw, and Fidel A. Reyes. That the basis of said criminal action was an editorial published in a newspaper called *El Renacimiento*, entitled "Aves de Rapiña"

Second. That during the pendency of said criminal action (*U. S. vs. Martin Ocampo, Teodoro M. Kalaw, and Fidel A. Reyes*) a civil action was commenced by the Hon. Dean C. Worcester against the plaintiffs in the present action, asking for damages occasioned to him by reason of the publication of said editorial "Aves de Rapiña" in said newspaper called *El Renacimiento*.

The theory of the plaintiffs is not that they are not responsible in civil damages as a result of said alleged libelous publication, but that the courts can not proceed with the civil action until the criminal action is determined and concluded. The plaintiffs rely upon the case of *Almeida Chan Tanco et al. vs. Abaroa* (8 Phil. Rep., 178). The decision in that case was based upon the provisions of the Penal Code, relating to the right of civil actions or the right to civil damages growing out of criminal acts. The civil and criminal actions, against a portion of the plaintiffs in the present case, are based, however, not upon the provisions of the Penal Code, but upon a law of the Philippine Commission. This court has decided in numerous cases that the provisions of the Penal Code are not

necessarily applicable to crimes created by laws of said Commission. (U.S. vs. Glefonea, 5 Phil. Rep., 570; U.S. vs. Lineses, 5 Phil. Rep., 631; U.S. vs. Hutchinson, 5 Phil. Rep., 343; U.S. vs. Ang Kan Ko, 6 Phil. Rep., 376; U.S. vs. Cortes, 7 Phil. Rep., 149; U.S. vs. Macasaet, 11 Phil. Rep., 447; U.S. vs. Servillas, 12 Phil. Rep., 12.)

The said criminal action against a portion of the present plaintiffs and the said civil action against the said plaintiffs in the present action were based upon Act No. 277 of the Philippine Commission. Said Act (No. 277) provides for a criminal action for the crime of libel, as well as a civil action for any person libeled in violation of the provisions of said Act.

Section 1 of said Act defines the crime of libel.

Section 2 provides for the punishment in such criminal action for the person who commits the acts described in said definition.

Section 11 provides that—

"In addition to the criminal action hereby prescribed, a right of civil action is also hereby given to any person libeled * * * against the person libeling him, for damages sustained by such libel * * *."

The theory of the plaintiffs evidently is that the result of the civil action must follow the result of the criminal action; in other words, if it should happen that the criminal action should finally be dismissed and the defendants absolved from liability, that under no condition would they be liable civilly; or, further, that the result of the criminal action is *res judicata* and may be pleaded in case the defendants are absolved from liability, as a bar to any civil action which might be based upon the same acts or publications. This theory appears to be founded upon the provisions of the Penal Code. Said Act No. 277, however, clearly recognizes two independent and distinct actions upon the theory that there are two separate and distinct injuries received from the crime of libel; one by the State and the other by the private individual who may have been injured by such libel.

The plea of *res judicata* generally can not be interposed except where the parties, facts, and questions are the same. (*Balatbat vs. Tanjutco*, 2 Phil. Rep., 182; *O'Connell vs. Mayuga*, 8 Phil. Rep., 422; *Merchant vs. The International Banking Corporation*, 9 Phil. Rep., 554; *Palanca Tan-Guinlay vs. Quiros*, 10 Phil. Rep., 360.)

In the criminal action to which reference is made in the first finding of fact above, the Government of the United States in the Philippine Islands was the plaintiff, and according to the petition filed in the present case, Martin Ocampo, Teodoro M. Kalaw, and Fidel A. Reyes were the defendants. In the civil action, to which reference is made in paragraph 2 above, the plaintiff was the Hon. Dean C. Worcester, and the defendants were the plaintiffs in this case, or Martin Ocampo, Teodoro M. Kalaw, Fidel A. Reyes, Faustino Aguilar, Leoncio G. Lique, Manuel Palma, Arcadio Arellano, Angel Jose, Galo Lichauco, Felipe Barretto, and Gregorio M. Cansipit. It seems, therefore, that the parties in the two actions are not the same. The facts may be the same in the two actions; that is to say, the two causes of action were based upon the same alleged libel or publication. The questions, however, in the two cases presented to the court are very different. In the criminal action the question was whether or not the acts of the defendants were in violation of section 1 of Act No. 277. In the criminal action the question was whether or not the will of the Government had been violated as the same is expressed in said Act. In the civil action the question presented for solution by the court was whether or not the plaintiff (Mr. Worcester) had suffered any damages by reason of said alleged libel or publication. In the criminal action the question which the court was called upon to resolve was, Had the will of said State as expressed in Act No. 277 been violated by the said alleged libel or publication? In the civil action the court was called upon to ascertain whether or not the Hon. Dean C. Worcester had, as an individual, suffered any of the injuries mentioned in said section 11.

The two actions, civil and criminal, provided for by Act No. 277, are given to two persons, regarding the State as

a person. The first is an offense against all of the people of the State; the second is an action granted to an individual in the State. In effect, so far as the question of res judicata is concerned, there can be no difference between the right of these two persons (the State and the individual) to each maintain the actions given, and in a case where two individuals are libeled by the same publication. Each, in the latter case, would be entitled to maintain a separate action and the nature and extent of the injuries received by each might be entirely different. The evidence to support the claim of each might be based upon entirely different grounds and supported by entirely different reasons.

The question presented by the plaintiffs herein is not a new one. It has been discussed many times by the courts and the text-book writers in relation with legislation under the Government of the United States. The rule adopted has been substantially stated in the following form:

A judgment in a criminal prosecution constitutes no bar or estoppel in a civil action based upon the same acts or transactions, and conversely of a judgment in a civil action sought to be given in evidence in a criminal prosecution. The reason most often given for this holding is that the two proceedings are not between the same parties. Different rules as to the competency of witnesses and weight of evidence necessary to the findings in the two proceedings also exist. As between civil and criminal actions, a judgment in one is no bar or estoppel to the prosecution of the other. A judgment in a criminal cause can not be pleaded as res judicata in a civil action.

This question has been discussed by the Supreme Court of the United States several times. One of the leading cases is that of *Stone vs. The United States* (167 U. S., 178). Stone was prosecuted in a criminal action for a violation of the timber laws of the United States. In the criminal action Stone was charged with illegally cutting timber from public lands in violation of the statute. The court found that the evidence was insufficient to sustain the complaint in the criminal action. Later the United States commenced a civil action against Stone to recover damages for the value of the timber alleged to have been illegally removed. In discussing the case, Justice Harlan said (p. 188) :

"In the criminal case the Government sought to punish a criminal offense, while in the civil case it only seeks in its capacity as owner of property, illegally converted, to recover its value. In the criminal case his acquittal may have been due to the fact that the Government failed to show, beyond a reasonable doubt, the existence of some fact essential to establish the offense charged, while the same evidence in a civil action brought to recover the value of the property illegally converted might have been sufficient to entitle the Government to a verdict. Not only was a greater degree of proof requisite to support the indictment than is sufficient to sustain the civil action, but an essential fact had to be proved in the criminal case, which was not necessary to be proved in the present suit. In order to convict the defendant upon the indictment for unlawfully, willfully, and feloniously cutting and removing timber from lands of the United States, it was necessary to prove criminal intent on his part, or, at least, that he knew the timber to be the property of the United States (*U. S. vs. Pearce*, 2 McLain, 14; *Cutter vs. State*, 36 N. J. Law, 125.)

But the present action [says Justice Harlan] for the conversion of the timber would be supported by proof that it was in fact the property of the United States, whether the defendant knew that fact or not. (*Wooden-ware Company vs. U.S.*, 106 U.S., 432.) An honest mistake of the defendant as to his title in the property would be a defense to the indictment but not the civil action. It can not be said that any fact was conclusively established in the criminal case, except that the defendant was not guilty of the public offense with which he was charged. We can not agree that the failure or inability of the United States to prove in the criminal case that the defendant had been guilty of a crime, either forfeited its right of property in the timber or its right in this civil action, upon a preponderance of proof, to recover the value of such property." The record of the criminal proceedings was not evidence to estop or disprove any of the material facts involved in the civil action. (*Boyd vs. U.S.*, 116 U. S., 616, 634; *Lees vs. U.S.*, 150 U.S., 476, 480.)

In the case of the United States vs. Jedicke (73 Fed. Rep., 100) a criminal action was commenced against the defendant, as postmaster, for the falsification of his books, by reason of which falsification he was able to have his salary or commissions increased. Later the Government commenced a civil action against him for the purpose of recovering the amount of money thus illegally obtained. The judge in deciding the case said (p. 104):

"In the criminal case it was necessary to prove that the returns were not only false, but that they were falsified by the defendant, and with the voluntary [fraudulent] intent of increasing his compensation beyond the amount allowed him by law. The amount sued for in this case is simply a sum improperly withheld by the defendant in excess of his legal compensation. Therefore, neither the facts to be established, nor the testimony to be adduced are the same as required in the criminal case."

See also the case of United States vs. Schneider (35 Fed. Rep., 107) where the defendant was charged in a criminal action with the violation of the revenue laws of the United States, and was later prosecuted in a civil action, and the court held that the Government was not estopped by the verdict in the criminal case to allege and prove in the civil action that the defendant was liable.

In the case of Chamberlain vs. Pierson (87 Fed. Rep., 420) both the civil and criminal actions had been prosecuted for the illegal interference with a railway track, by which the train was derailed and certain persons injured. In deciding the case, the court said (p. 424) :

"Since the parties to a criminal prosecution and those in a civil suit are [necessarily] different, and as the objects and results of the two proceedings, and the rules of evidence which apply to them, respectively, are equally diverse, it follows that the judgment in the former (criminal) can not be used by way of estoppel in the latter."

As a general rule a verdict and judgment in a criminal case can not be given in evidence in a civil action. If the defendant was convicted in the criminal action it may have been upon the evidence of the very plaintiff in the civil action; and if he was acquitted it may have been by collusion with the prosecutor. But, besides this, upon the same general grounds there is no mutuality; the parties can not be the same; neither are the rules of decision and course of proceeding the same; the defendant as a general rule can not avail himself in the criminal trial of any admissions of the plaintiff in the civil action; and, on the other hand, the jury in the civil action must decide upon a mere preponderance of the evidence, whereas, in order to have a criminal conviction they must be satisfied of the party's guilt, beyond a reasonable doubt; the same principle renders a judgment in a civil action inadmissible in evidence in a criminal prosecution. It is also a principle of justice that no man ought to be bound by proceedings to which he was a stranger. In a criminal action for libel the real person injured was not the party. In the criminal action he had no opportunity to present evidence showing the character of his injuries. The cause was under the direction of the representative of the State. He had no voice whatever in that case.

In the case of Steel vs. Cazeaux (8 Martin (La.), 318, 13 Am, Doc, 288) the supreme court of the State of Louisiana said:

"A judgment of conviction in a criminal prosecution can not be given in evidence in a civil action. (1st Greenleaf on Evidence, sec. 537; Betts vs. New Hartford, 25 Conn., 185; Hutchinson vs. Bank of Wheeling, 41 Pa. St., 42; Beausoliel vs. Brown, 15 La. Ann., 543.)"

In the case of McDonald vs. Stark (176 Ill., 456, at 468) the objection was made that the defendant had been prosecuted criminally for the same acts. The Supreme Court said:

"To make a former action res judicata there must be identity in the thing sued for, identity of the cause of action, and identity of persons and parties to the action. The criminal action was in the name of the People of the State of Illinois and not in the name of Stark, as an individual. There was no identity to the action and it can

not be a bar to this action."

In actions for slander or libel where the defendant is charged with having accused the plaintiff with the commission of a crime or other acts which reflected upon his character, it is held by the great weight of modern authority that the defendant may sustain his defense and the plaintiff may sustain his cause of action by a preponderance of evidence. (Reilley vs. Norton, 65 Iowa, 306; Sloane vs. Gilbert, 23 Am. Dec, 708; Greenleaf on Evidence, 426; Townsend on Slander and Libel, 2d ed., 644; Hilliard on Torts, -Cooley on Torts, 208.)

In the case of Ellis Buzzell (60 Maine, 209) the plaintiff claimed that the defendant had slandered him by charging him with the fact that he had been guilty of the crime of adultery. The plaintiff brought an action to recover damages. The court held that in an action for damages a preponderance of the evidence was sufficient to sustain the charge. In the last case, in discussing the right to bring a civil and criminal action and the rules of evidence applicable to each, the court said:

"But we think it time to limit the application of a rule which was originally adopted in favorem vitae in the days of a sanguinary penal code to cases arising on a criminal docket, and no longer to suffer it to obstruct or encumber the action in civil suits, sounding only in damages."

This court has already recognized the right of the private person injured by a libel to maintain an action for damages independent of any criminal action which the State might deem advisable to maintain. (Macleod vs. The Philippine Publishing Co., 12 Phil. Rep., 427.) In that case, however, the question presented here was not presented nor discussed, and can not, therefore, serve as a precedent to the present case. One thing is certain, however, that it did not occur to the lawyers in that case that the criminal action must necessarily precede or in any way affect the civil action for damages. In the criminal action provided for under said Act (No. 277) certain defenses, such as the truth of the publication and the purposes of the publication, were given to the defendant. Under section 11 of said Act, it is expressly provided that "the presumptions, rules of evidence, and special defenses herein provided for criminal prosecutions shall be equally applicable in civil actions under this section."

This provision clearly indicates that the civil action for damages resulting from the libel is a separate and distinct action from the criminal action provided for.

For all of the foregoing reasons we are of the opinion and so hold that the facts set out in the petition of the plaintiffs herein are not sufficient to entitle them to the preliminary injunction prayed for. That part of the prayer of the plaintiffs is, therefore, hereby denied.

It is so ordered.

Torres, Carson, Moreland, and Elliott, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.