

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. BAGGAY, JR.,
DEFENDANT AND APPELLANT.***G.R. No. 6659. September 01, 1911*

Ponente: TORRES, J.

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This is an appeal by the defendant from the judgment rendered on April 28, 1910, whereby he was declared exempt from criminal liability but was obligated to indemnify the heirs of the murdered woman, Bil-liingan, in the sum of P1,000, to pay the costs in the case and to be confined in an institution for the insane until further order of the court.

About the 4th of October, 1909, several persons were assembled in the defendant's house in the township of Penarrubia, Abra, Province of Ilocos Sur, for the purpose of holding a song service called "buni" according to the Tinguian custom, when he, the non-Christian Baggay, without provocation suddenly attacked the woman Bil-liingan with a bolo, inflicting a serious wound on her head from which she expired immediately; and with the same bolo he likewise inflicted various wounds on the women named Calbayan, Agueng, Quisamay, Calapini, and on his own mother, named Dioalan.

For this reason the provincial fiscal filed a complaint in the court of Ilocos Sur, dated February 15, charging the non-Christian Baggay, jr., with murder, because of the violent death of the woman Bil-liingan. This cause was instituted separately from the other, No. 1109, for lesiones. After trial and proof that the defendant was suffering from mental aberration, the judge on April 28 rendered the judgment cited above, whereupon the defendant's counsel appealed to this court.

By another writing of June 27, the same counsel asked for immediate suspension of execution of the judgment, because it had been appealed and had not become final. He also requested annulment of the sale at public auction of the property attached by the sheriff or his deputy under order of the court, for making indemnification with the defendant's property in accordance with said judgment, as the attachment had been executed upon the property of the non-Christian woman named Dioalan and of other persons, and not upon that of the defendant.

In opposition thereto, the provincial fiscal on the 30th of the same month requested in writing that the appeal from this judgment filed by the counsel for the defense be not admitted or carried forward, representing that it was out of order as having been submitted beyond the time limit; for on the very day said judgment was rendered, April 28, 1910, the accused's counsel, Sotero Serrano, was verbally notified thereof, and it is therefore untrue that he was notified only on June 17 of said year, on which date he read and examined the case and without the clerk's knowledge signed the same, making it appear that he was notified on that date, June 17, when he had known since April 28 of the judgment, of which the judge had verbally informed him, although the latter did not then have him sign it.

In reply to this motion of the provincial fiscal, the defense requested that the appeal filed be admitted and carried forward, representing that, when the court verbally announced his decision to defendant's counsel; the judgment

had not yet been entered, and therefore neither the defendant nor his counsel could be notified thereof in legal form until said date, June 17.

Passing upon this motion on August 2, 1910, the court declared said appeal out of order and dismissed it; and, furthermore, denied the petition for suspension of judgment, as said judgment had become final.

Thereupon, counsel for the defendant resorted to this court with a petition praying that a writ be issued directing said judge, Chanco, to admit the appeal and forward it, at the same time annulling all action taken for execution of the judgments rendered in the causes for murder and for lesiones. After consideration thereof, the Attorney-General, on behalf of said judge and of the provincial fiscal, requested that this remedy be declared out of order, as the issuance of such a writ against the judge of the Court of First Instance of Ilocos Sur, and much more against the provincial fiscal, was not in accordance with law; but this court by order of November 15 saw fit to declare said remedy of mandamus to be in order and issued a written order directing the judge of the Court of First Instance to immediately admit the appeal filed in these two causes and to forward all the records to this higher court. At the same time he was instructed to refrain absolutely from executing said judgments or causing them to be executed while said appeals were pending, a prohibition that was extended to the provincial sheriff, his agents and representatives, until further order from this court. Upon notification of the foregoing and in compliance therewith, the judge by order of November 22 admitted the appeal filed by counsel for the defense both in the cause for murder and in that for lesiones.

The question raised on the appeal filed in this case by counsel for the insane defendant, Baggay, jr., is solely whether he, notwithstanding that he was held exempt from criminal liability, has nevertheless incurred civil liability, with obligation to indemnify the heirs of the murdered woman and to pay the costs.

Article 17 of the Penal Code states:

"Every person criminally liable for a crime or misdemeanor is also civilly liable."

Article 18 of the same code says;

"The exemption from criminal liability declared in Nos. 1, 2, 3, 7, and 10 of article 8 does not include exemption from civil liability, which shall be enforced, subject to the following:

"(1) In cases 1, 2, and 3, the persons who are civilly liable for acts committed by a lunatic or imbecile, or a person under 9 years of age, or over this age and under 15, who has not acted with the exercise of judgment, are those who have them under their authority, legal guardianship or power, unless they prove that there was no blame or negligence on their part.

"Should there be no person having them under his authority, legal guardianship, or power, or if such person be insolvent, the said lunatics, imbeciles, or minors shall answer with their own property, excepting that part which is exempted for their support in accordance with the civil law."

True it is that civil liability accompanies criminal "liability, because every person liable criminally for a crime or misdemeanor is also liable for reparation of damage and for indemnification of the harm done, but there may be civil liability because of acts ordinarily punishable, although the law has declared their perpetrators exempt from criminal liability. Such is the case of a lunatic or insane person who, in spite of his irresponsibility on account of the deplorable condition of his deranged mind, is still reasonably and justly liable with his property for the consequences of his acts, even though they be performed unwittingly, for the reason that his fellows ought not to suffer from the disastrous results of his harmful acts more than is necessary, in spite of his unfortunate condition. Law and society are under obligation to protect him during his illness and so when he is declared to be liable with his property for reparation and indemnification, he is still entitled to the benefit of what is necessary for his decent

maintenance, but this protection does not exclude liability for damage caused to those who may have the misfortune to suffer the consequences of his acts.

According to the law, the persons in the first place liable. are those who have the insane party under their care or guardianship, unless they prove that there was no blame or negligence on their part; but if the demented person or imbecile lack a guardian or some person charged with his care, or if the latter be insolvent, then his own property must meet the civil liability of indemnifying or repairing the damage done, and for this reason judges and courts in rendering judgment in a criminal cause prosecuted against an insane or demented person, even when they hold the accused exempt from criminal liability, must fix the civil liability of the persons charged with watching over and caring for him or the liability of the demented person himself with his property for reparation of the damage and indemnification for the harm done, unless the offended party or the heirs of the person murdered expressly renounce such reparation or indemnification.

Therefore, the judgment appealed from being in accordance with law, affirmation thereof is proper, and it is hereby affirmed, with costs against the appellant.

Mapa, Johnson, Carson, and Moretand, JJ., concur.

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