

**JOSE M. BELEN, PETITIONER, VS. HON. FELICIDARIO M. BATOY,
RENATO SANCHEZ, PORFERIO, HAMAMA & BUSTILLO BAYOC,
RESPONDENTS.**

G.R. No. 76042, February 23, 1990

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a petition for certiorari challenging the validity of the Decision dated April 8, 1986 and subsequent orders of the respondent Judge in Criminal Case No. 03 (1804) for the crime of estafa of the Regional Trial Court (RTC) Branch XI, Bukidnon.

Petitioner Jose M. Belen is the president of the Misamis Oriental-Bukidnon-Camiguin Federation of Cooperatives (MBC for brevity) which entered into an agreement with the members of the Mamdahilin Farmers Cooperative Association, Inc. (MFCAI, for brevity) that members of the MFCAI who have at least one-half hectare of land to cultivate were entitled to financial assistance from the MBC thru the facilities of the Development Bank of the Philippines and from commodity loan advances obtained by the MBC from contracted buyers of tomatoes through the purchase by the accused of the tomatoes of the farmers.

Petitioner Jose M. Belen, together with four co-accused Severino Ligutom, Jr., Jose Pacheco, Jr., Severo Akiat and Raul Vismanos, being officers and employees of the MBC and MFCAI, were charged in an information, dated April 7, 1976 (p. 12, Rollo), for having willfully and unlawfully failed to remit and deliver but instead misappropriated and converted for their personal use and benefit the proceeds of the 46,853 crates of tomatoes valued at P1,542,500.88 produced by the farmers who were members of the cooperative and delivered to the packing shed of the MFCAI during the months of August to December 1974.

During the trial, the public prosecutor filed a motion to dismiss said case against petitioner accused Jose M. Belen, Raul Vismanos and Severo Akiat for insufficiency of evidence against them which the trial court granted. Trial proceeded with the remaining two accused Severino Ligutom, Jr. and Jose Pacheco, Jr. Thereafter, on April 8, 1986, respondent Judge rendered his assailed decision wherein he acquitted the two remaining accused of any criminal liability but held them civilly liable together with petitioner herein Jose M. Belen, Severe Akiat and Raul Vismanos ordering all five of them to pay immediately, jointly and severally, the individual claims of the fifty one private complainants for the total amount of P1,077,679.19. Accused Jose M. Belen filed his Motion for Reconsideration and a second motion for reconsideration of the assailed decision which were both denied by the respondent Judge. Hence, this petition for certiorari.

The sole issue here is whether or not an accused whose case has already been dismissed by the court upon motion of the prosecuting fiscal could still be held civilly liable jointly with his other co-accused in a judgment of acquittal.

The answer is in the affirmative.

It is admitted by petitioner that the civil action was jointly instituted with the criminal action in Criminal Case No. 03 (1804). However the dismissal of the criminal case against petitioner did not extinguish petitioner's civil liability since the dismissal was because of insufficiency of evidence against petitioner and not from a declaration from the court in a final judgment that the fact from which the civil action might arise did not exist. Relying on the provision of Sec. 2 last paragraph of Rule 120 of the 1985 Rules of Court in Criminal Procedure, to wit:

"In case of acquittal, unless there is a clear showing that the act from which the civil liability might arise did not exist, the judgment shall make a finding on the civil liability of the accused in favor of the offended party."

the respondent Judge proceeded to make his finding on the civil liability of the accused based on the contract between the parties. Since said finding on the civil liability arose out of an obligation not arising from the act or omission complained of as a felony, such action may proceed independently of the criminal proceedings and regardless of the result of the latter.

The prevailing rule as enunciated by Us in the case of *Padilla v. C. A.* (129 SCRA 558) and reiterated in the case of *People v. Jalandoni* (131 SCRA 454) is that the Court may acquit an accused on reasonable doubt and still order payment of civil damages already proved in the same case without need for a separate civil action.

Petitioner cannot complain of lack of due process because after the dismissal of the criminal case against him, he was no longer notified of the continuation of the trial of the case. Such allegation is belied by the wordings of the Order, dated December 19, 1984 (Annex "B") issued by the respondent Judge stating that the continuation of the trial of the case was set to January 25, 1986 at 8:30 o'clock in the morning. This order was also the same order which dismissed the criminal case against petitioner, Severo Akiat and Raul Vismanos for insufficiency of evidence. There is no doubt that petitioner received a copy of such order but despite his knowledge about the next scheduled hearing he did not anymore appear and defend himself. Petitioner slept on his right by his own negligence or inaction. Furthermore, the facts to be proved in the civil case have already been established in the criminal proceedings and there is no need for additional facts or evidence to be adduced. This is a case wherein it is not disputed that complainants-farmers had delivered and sold their tomato produce to the cooperatives (MBA and MFCAI) wherein petitioner and his co-accused are officers and employees but which produce were not paid or accounted for by the latter as agreed upon in their contract. In acquitting the accused including petitioner herein of the crime of estafa, the respondent Court ruled that since the transaction was purely purchase and sale, the crime of estafa thru misappropriation was not present since there was no trust, commission, or administration involved with respect to said tomatoes for the accused to return said tomatoes to the private complainants but there was an obligation of the accused and his co-accused as accountable officers of the MBC and MFCAI to pay for the value of the delivered crates of tomatoes and the actual damage suffered by the complainants. Such aforementioned obligation of the five accused was purely civil in nature which the court demanded of them to prevent miscarriage of justice to the farmers-complainants who are entitled to the reparation of damages suffered by them.

WHEREFORE, premises considered, the petition is hereby DISMISSED for lack of merit.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

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