

EDGAR JARANTILLA, PETITIONER, VS. COURT OF APPEALS AND JOSE KUAN SING, RESPONDENTS.*G.R. No. 80194. March 21, 1989*

Ponente: REGALADO, J.

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The records show that private respondent Jose Kuan Sing was “sideswiped by a vehicle in the evening of July 7, 1971 in Iznart Street, Iloilo City”.^[1] The respondent Court of Appeals concurred in the findings of the court a quo that the said vehicle which figured in the mishap, a Volkswagen (Beetle type) car, was then driven by petitioner Edgar Jarantilla along said street toward the direction of the provincial capitol, and that private respondent sustained physical injuries as a consequence.^[2]

Petitioner was accordingly charged before the then City Court of Iloilo for serious physical injuries thru reckless jurisprudence in Criminal Case No. 47207 thereof.^[3] Private respondent, as the complaining witness therein, did not reserve his right to institute a separate civil action and he intervened in the prosecution of said criminal case through a private prosecutor.^[4] Petitioner was acquitted in said criminal case on reasonable doubt.^[5]

On October 30, 1974, private respondent filed a complaint against the petitioner in this former Court of First Instance of Iloilo, Branch IV,^[6] docketed therein as Civil Case No. 9976, and which civil action involved the same subject matter and act complained of in Criminal Case No. 47027.^[7] In his answer filed therein, the petitioner alleged as special and affirmative defenses that the private respondent had no cause of action and, additionally, that the latter's cause of action, if any, is barred by the prior judgment in Criminal Case No. 47207 inasmuch as when said criminal case was instituted the civil liability was also deemed instituted since therein plaintiff failed to reserve the civil aspect and actively participated in the criminal case.^[8]

Thereafter, acting on a motion to dismiss of therein defendant, the trial court issued on April 3, 1975 an order of denial, with the suggestion that “(t)o enrich our jurisprudence, it is suggested that the defendant brings (sic) this ruling to the Supreme Court by certiorari or other appropriate remedy, to review the ruling of the court”.^[9]

On June 17, 1975, petitioner filed in this Court a petition for certiorari, prohibition and mandamus, which was docketed as G.R. No. L-40992,^[10] assailing the aforesaid order of the trial court. Said petition was dismissed for lack of merit in the Court's resolution of July 23, 1975, and a motion for reconsideration thereof was denied for the same reason in a resolution of October 28, 1975.^[11]

After trial, the court below rendered judgment on May 23, 1977 in favor of the herein private respondent and ordering herein petitioner to pay the former the sum of P6,920.00 for hospitalization, medicines and so forth, P2,000.00 for other actual expenses, P25,000.00 for moral damages, P5,000.00 for attorney's fees, and costs.^[12]

On July 29, 1987, the respondent Court of Appeals^[13] affirmed the decision of the lower court except as to the award for moral damages which it reduced from P25,000.00 to P18,000.00. A motion for reconsideration was denied by respondent court on September 18, 1987.^[14]

The main issue for resolution by Us in the present recourse is whether the private respondent, who was the complainant in the criminal action for physical injuries thru reckless imprudence and who participated in the prosecution thereof without reserving the civil action arising from the act or omission complained of, can file a separate action for civil liability arising from the same act or omission where the herein petitioner was acquitted in the criminal action on reasonable doubt and no civil liability was adjudicated or awarded in the judgment of acquittal.

Prefatorily, We note that petitioner raises a collateral issue by faulting the respondent court for refusing to resolve an assignment of error in his appeal therein, said respondent court holding that the main issue had been passed upon by this Court in G.R. No. L-40992 hereinbefore mentioned. It is petitioner's position that the aforesaid two resolutions of the Court in said case, the first dismissing the petition and the second denying the motion for reconsideration, do not constitute the "law of the case" which would control the subsequent proceedings in this controversy.

1. We incline favorably to petitioner's submission on this score.

The "doctrine of the law of the case" has no application at the aforesaid posture of the proceedings when the two resolutions were handed down. While it may be true that G.R. No. L-40992 may have involved some of the issues which were thereafter submitted for resolution on the merits by the two lower courts, the proceedings involved there was one for certiorari, prohibition and mandamus assailing an interlocutory order of the court a quo, specifically, its order denying therein defendant's motion to dismiss. This Court, without rendering a specific opinion or explanation as to the legal and factual bases on which its two resolutions were predicated, simply dismissed the special civil action on that incident for lack of merit. It may very well be that such resolution was premised on the fact that the Court, at that stage and on the basis of the facts then presented, did not consider that the denial order of the court a quo was tainted with grave abuse of discretion.[15] To repeat, no rationale for such resolutions having been expounded on the merits of that action, no law of the case may be said to have been laid down in G.R. No. L-40992 to justify the respondent court's refusal to consider petitioner's claim that his former acquittal barred the separate action.

"'Law of the case' has been defined as the opinion delivered on a former appeal. More specifically, it means that whatever is once irrevocably established, as the controlling legal rule of decision between the same parties in the same case continues to be the law of the case, whether correct on general principles or not, so long as the facts on which such decision was predicated continue to be the facts of the case before the court (21 C.J.S. 330)." (Underscoring supplied).[16]

"It need not be stated that the Supreme Court being the court of last resort, is the final arbiter of all legal questions properly brought before it and that its decision in any given case constitutes the law of that particular case. x x x" (Emphasis supplied).[17]

"It is a rule of general application that the decision of an appellate court in a case is the law of the case on the points presented throughout all the subsequent proceedings in the case in both the trial and the appellate courts, and no question necessarily involved and decided on that appeal will be considered on a second appeal or writ of error in the same case, provided the facts and issues are substantially the same as those on which the first question rested and, according to some authorities, provided the decision is on the merits. x x x"[18]

2. With the foregoing ancillary issue out of the way, We now consider the principal plaint of petitioner.

Apropos to such resolution is the settled rule that the same act or omission (in this case, the negligent sideswiping of private respondent) can create two kinds of liability on the part of the offender, that is, civil liability ex delicto and civil liability ex quasi delicto. Since the same negligence can give rise either to a delict or crime or to a

quasi-delict or tort, either of these two types of civil liability may be enforced against the culprit, subject to the caveat under Article 2177 of the Civil Code that the offended party cannot recover damages under both types of liability.[19]

We also note the reminder of petitioner that in *Roa vs. De la Cruz, et al.*,[20] it was held that where the offended party elected to claim damages arising from the offense charged in the criminal case through her intervention as a private prosecutor, the final judgment rendered therein constituted a bar to the subsequent civil action based upon the same cause. It is meet, however, not to lose sight of the fact that the criminal action involved therein was for serious oral defamation which, while within the contemplation of an independent civil action under Article 33 of the Civil Code, constitutes only a penal offense and cannot otherwise be considered as a quasi-delict or culpa aquiliana under Articles 2176 and 2177 of the Civil Code. And while petitioner draws attention to the supposed reiteration of the *Roa* doctrine in the later case of *Azucena vs. Potenciano, et al.*,[21] this time involving damage to property through negligence as to make out a case of quasi-delict under Articles 2176 and 2180 of the Civil Code, such secondary reliance is misplaced since the therein plaintiff *Azucena* did not intervene in the criminal action against defendant *Potenciano*. The citation of *Roa* in the later case of *Azucena* was, therefore, clearly obiter and affords no comfort to petitioner.

These are aside from the fact that there have been doctrinal, and even statutory,[22] changes on the matter of civil action arising from criminal offenses and quasi-delicts. We will reserve our discussion on the statutory aspects for another case and time and, for the nonce, We will consider the doctrinal developments on this issue.

In the case under consideration, private respondent participated and intervened in the prosecution of the criminal suit against petitioner. Under the present jurisprudential milieu, where the trial court acquits the accused on reasonable doubt, it could very well make a pronouncement on the civil liability of the accused[23] and the complainant could file a petition for mandamus to compel the trial court to include such civil liability in the judgment of acquittal.[24]

Private respondent, as already stated, filed a separate civil action after such acquittal. This is allowed under Article 29 of the Civil Code. We have ruled in the relatively recent case of *Lontoc vs. MD Transit & Taxi Co., Inc., et al.*[25] that:

"In view of the fact that the defendant- appellee *de la Cruz* was acquitted on the ground that 'his guilt was not proven beyond reasonable doubt' the plaintiff-appellant has the right to institute a separate civil action to recover damages from the defendants-appellants (See *Mendoza vs. Arrieta*, 91 SCRA 113). The well-settled doctrine is that a person, while not criminally liable may still be civilly liable. 'The judgment of acquittal extinguishes the civil liability of the accused only when it includes a declaration that the facts from which the civil liability might arise did not exist'. (*Padilla vs. Court of Appeals*, 129 SCRA 558 cited in *People vs. Rogelio Ligon y Tria, et al.*, G.R. No. 74041, July 29, 1987; *Filomeno Urbano vs. Intermediate Appellate Court*, G.R. No. 72964, January 7, 1988). The ruling is based on Article 29 of the Civil Code which provides:

'When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence.' x x x"[26]

Another consideration in favor of private respondent is the doctrine that the failure of the court to make any pronouncement, favorable or unfavorable, as to the civil liability of the accused amounts to a reservation of the right to have the civil liability litigated and determined in a separate action. The rules nowhere provide that if the court fails to determine the civil liability it becomes no longer enforceable.[27]

Furthermore, in the present case the civil liability sought to be recovered through the application of Article 29 is

no longer that based on or arising from the criminal offense. There is persuasive logic in the view that, under such circumstances, the acquittal of the accused foreclosed the civil liability based on Article 100 of the Revised Penal Code which presupposes the existence of criminal liability or requires a conviction of the offense charged. Divested of its penal element by such acquittal, the causative act or omission becomes in effect a quasi-delict, hence only a civil action based thereon may be instituted or prosecuted thereafter, which action can be proved by mere preponderance of evidence.[28] Complementary to such considerations, Article 29 enunciates the rule, as already stated, that a civil action for damages is not precluded by an acquittal on reasonable doubt for the same criminal act or omission.

The allegations of the complaint filed by the private respondent supports and is constitutive of a case for a quasi--delict committed by the petitioner, thus:

"3. That in the evening of July 7, 1971 at about 7:00 o'clock, the plaintiff crossed Iznart Street from his restaurant situated at 220 Iznart St., Iloilo City, Philippines, on his way to a meeting of the Cantonese Club at Aldeguer Street, Iloilo City and while he was standing on the middle of the street as there were vehicles coming from the Provincial Building towards Plazoleta Gay, Iloilo City, he was bumped and sideswiped by Volkswagen car with plate No. B-25-08 W which was on its way from Plazoleta Gay towards the Provincial Capitol, Iloilo City, which car was being driven by the defendant in a reckless and negligent manner, at an excessive rate of speed and in violation of the provisions of the Revised Motor Vehicle (sic) as amended, in relation to the Land Transportation and Traffic Code as well as in violation of existing city ordinances, and by reason of his inexcusable lack of precaution and failure to act with due negligence and by failing to take into consideration (sic) his degree of intelligence, the atmospheric conditions of the place as well as the width, traffic, visibility and other conditions of Iznart Street;"[29]

Since this action is based on a quasi-delict, the failure of the respondent to reserve his right to file a separate civil case and his intervention in the criminal case did not bar him from filing such separate civil action for damages.[30] The Court has also heretofore ruled in *Elcano vs. Hill*[31] 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 also actually charged 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. (c) of Sec. 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. x x x"

The aforecited case of *Lontoc vs. MD Transit & Taxi Co., Inc., et al.* involved virtually the same factual situation. The Court, in arriving at the conclusion hereinbefore quoted, expressly declared that the failure of the therein plaintiff to reserve his right to file a separate civil case is not fatal; that his intervention in the criminal case did not bar him from filing a separate civil action for damages, especially considering that the accused therein was acquitted because his guilt was not proved beyond reasonable doubt; that the two cases were anchored on two different causes of action, the criminal case being on a violation of Article 365 of the Revised Penal Code while the subsequent complaint for damages was based on a quasi-delict; and that in the judgment in the criminal case the aspect of civil liability was not passed upon and resolved. Consequently, said civil case may proceed as authorized by Article 29 of the Civil Code.

Our initial adverse observation on a portion of the decision of respondent court aside, We hold that on the issues decisive of this case it did not err in sustaining the decision a quo.

WHEREFORE, the writ prayed for is hereby DENIED and the decision of the respondent Court of Appeals is AFFIRMED, without costs.

SO ORDERED.

Melencio-Herrera, Paras, Padilla, and Sarmiento, JJ., concur.

[1] Rollo, 24.

[2] Ibid., 22-23.

[3] Ibid., 41.

[4] Ibid., 23-24.

[5] Ibid., 49.

[6] Presided over by Judge Valerio V. Rovira.

[7] Rollo, 5-6, 50.

[8] Ibid., 6, 51.

[9] Ibid., 51.

[10] Edgar Jarantilla, Petitioner, vs. Honorable Valerio v. Rovira, et al., Respondents.

[11] Rollo, 52.

[12] Ibid., 57.

[13] Fourteenth Division, Justice Jesus M. Elbinias, ponente, Justices Fidel P. Purisima and Emeterio C. Cui, concurring.

[14] Rollo, 32, 34-36.

[15] See Moreno vs. Macadaeg, 7 SCRA 700 (1963); Espiritu, et al vs. Solidum, et al., 52 SCRA 131 (1973).

[16] People vs. Olarte, 19 SCRA 494 (1967), citing People vs. Pinuila, 55 O.G. 4228 (1958).

[17] Kabigting vs. Acting Director of Prisons, G.R. No. L-15548, Oct. 20, 1962, cited in Gokongwei, Jr. vs. Securities and Exchange Commission, et al., 89 SCRA 336 (1979).

[18] Trinidad vs. Roman Catholic Archbishop of Manila, 63 Phil. 881, 913 (1924), citing 4 C.J. 1093-1096, sec. 8075.

[19] Berredo vs. Garcia, et al., 73 Phil. 607 (1942); Mendoza vs. Arrieta, 91 SCRA 113 (1979); Padilla vs. Court of Appeals, et al. 129 SCRA 558 (1984).

[20] 107 Phil. 8 (1960).

[21] 5 SCRA 468 (1962).

[22] The original provisions thereon in Sec. 1, Rule 107 of the 1940 Rules of Court were revised in Secs. 1 to 5, Rule 111 of the 1964 Rules of Court. Amendments were thereafter introduced by Secs. 1 to 6, Rule III of the 1985 Rules on Criminal Procedure which were further amended in 1988 (see Footnote 26, *infra*).

[23] Padilla vs. Court of Appeals, et al., supra; People vs. Jalandoni, 131 SCRA 454 (1984); Maximo vs. Gerochi, Jr., 144 SCRA 325 (1986).

[24] Maximo vs. Gerochi, Jr. supra; see also Sec. 2, Rule 120, Rules of Court.

[25] G.R. No. L-48949, April 15, 1988.

[26] The same rule was provided in Sec. 3(c) Rule 111 of the 1964 Rules of Court, reproduced in Sec. 3(b), Rule 111 of the 1985 Rules on Criminal Procedure, and is now found in Sec. 2(b), Rule 111, under the amendments last approved in the resolution of the Court on July 7, 1988.

[27] Bachrach Motors Co. vs. Gamboa, 101 Phil. 1219 (1957); Bernaldez vs. Bohol Land Transportation Co., 7 SCRA 276 (1963).

[28] See Sangco, Philippine Law on Torts and Damages, 1984 Ed., 555.

[29] Record on Appeal, 1-2.

[30] Dula, et al. vs. Dianala, et al., 132 SCRA 245 (1984).

[31] 77 SCRA 98 (1977).

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