

## THIRD DIVISION

[ G.R. No. 189081, August 10, 2016 ]

**GLORIA S. DY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,  
MANDY COMMODITIES CO., INC., REPRESENTED BY ITS  
PRESIDENT, WILLIAM MANDY, RESPONDENTS.**

### DECISION

**JARDELEZA, J.:**

Our law states that every person criminally liable for a felony is also civilly liable. This civil liability *ex delicto* may be recovered through a civil action which, under our Rules of Court, is deemed instituted with the criminal action. While they are actions mandatorily fused,<sup>[1]</sup> they are, in truth, separate actions whose existences are not dependent on each other. Thus, civil liability *ex delicto* survives an acquittal in a criminal case for failure to prove guilt beyond reasonable doubt. However, the Rules of Court limits this mandatory fusion to a civil action for the recovery of civil liability *ex delicto*. It, by no means, includes a civil liability arising from a different source of obligation, as in the case of a contract. Where the civil liability is *ex contractu*, the court hearing the criminal case has no authority to award damages.

#### The Case

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court. Petitioner Gloria S. Dy (petitioner) seeks the reversal of the decision of the Court of Appeals (CA) dated February 25, 2009 (Assailed Decision)<sup>[2]</sup> ordering her to pay Mandy Commodities Company, Inc. (MCCI) in the amount of P21,706,281.00.<sup>[3]</sup>

#### The Facts

Petitioner was the former General Manager of MCCL. In the course of her employment, petitioner assisted MCCI in its business involving several properties. One such business pertained to the construction of warehouses over a property (Numancia Property) that MCCI leased from the Philippine National Bank (PNB). Sometime in May 1996, in pursuit of MCCI's business, petitioner proposed to William Mandy (Mandy), President of MCCI, the purchase of a property owned by Pantranco. As the transaction involved a large amount of money, Mandy agreed to obtain a loan from the International China Bank of Commerce (ICBC). Petitioner represented that she could facilitate the approval of the loan. True enough, ICBC granted a loan to MCCI in the amount of P20,000,000.00, evidenced by a promissory note. As security, MCCI also executed a chattel mortgage over the warehouses in the Numancia Property. Mandy entrusted petitioner with the obligation to manage the payment of the loan.<sup>[4]</sup>

In February 1999, MCCI received a notice of foreclosure over the mortgaged

property due to its default in paying the loan obligation.<sup>[5]</sup> In order to prevent the foreclosure, Mandy instructed petitioner to facilitate the payment of the loan. MCCI, through Mandy, issued 13 Allied Bank checks and 12 Asia Trust Bank checks in varying amounts and in different dates covering the period from May 18, 1999 to April 4, 2000.<sup>[6]</sup> The total amount of the checks, which were all payable to cash, was P21,706,281.00. Mandy delivered the checks to petitioner. Mandy claims that he delivered the checks with the instruction that petitioner use the checks to pay the loan.<sup>[7]</sup> Petitioner, on the other hand, testified that she encashed the checks and returned the money to Mandy.<sup>[8]</sup> ICBC eventually foreclosed the mortgaged property as MCCI continued to default in its obligation to pay. Mandy claims that it was only at this point in time that he discovered that not a check was paid to ICBC.<sup>[9]</sup>

Thus, on October 7, 2002, MCCI, represented by Mandy, filed a Complaint-Affidavit for *Estafa*<sup>[10]</sup> before the Office of the City Prosecutor of Manila. On March 3, 2004, an Information<sup>[11]</sup> was filed against petitioner before the Regional Trial Court (RTC) Manila.

After a full-blown trial, the RTC Manila rendered a decision<sup>[12]</sup> dated November 11, 2005 (RTC Decision) acquitting petitioner. The RTC Manila found that while petitioner admitted that she received the checks, the prosecution failed to establish that she was under any obligation to deliver them to ICBC in payment of MCCI's loan. The trial court made this finding on the strength of Mandy's admission that he gave the checks to petitioner with the agreement that she would encash them. Petitioner would then pay ICBC using her own checks. The trial court further made a finding that Mandy and petitioner entered into a contract of loan.<sup>[13]</sup> Thus, it held that the prosecution failed to establish an important element of the crime of *estafa*—misappropriation or conversion. However, while the RTC Manila acquitted petitioner, it ordered her to pay the amount of the checks. The dispositive portion of the RTC Decision states —

WHEREFORE, the prosecution having failed to establish the guilt of the accused beyond reasonable doubt, judgment is hereby rendered ACQUITTING the accused of the offense charged. With costs de officio.

The accused is however civilly liable to the complainant for the amount of P21,706,281.00.

SO ORDERED.<sup>[14]</sup>

Petitioner filed an appeal<sup>[15]</sup> of the civil aspect of the RTC Decision with the CA. In the Assailed Decision,<sup>[16]</sup> the CA found the appeal without merit. It held that the acquittal of petitioner does not necessarily absolve her of civil liability. The CA said that it is settled that when an accused is acquitted on the basis of reasonable doubt, courts may still find him or her civilly liable if the evidence so warrant. The CA explained that the evidence on record adequately prove that petitioner received the checks as a loan from MCCI. Thus, preventing the latter from recovering the amount of the checks would constitute unjust enrichment. Hence, the Assailed Decision ruled

WHEREFORE, in view of the foregoing, the appeal is DENIED. The Decision dated November 11, 2005 of the Regional Trial Court, Manila, Branch 33 in Criminal Case No. 04-224294 which found Gloria Dy civilly liable to William Mandy is AFFIRMED.

**SO ORDERED.**<sup>[17]</sup>

The CA also denied petitioner's motion for reconsideration in a resolution<sup>[18]</sup> dated August 3, 2009.

Hence, this Petition for Review on *Certiorari* (Petition). Petitioner argues that since she was acquitted for failure of the prosecution to prove all the elements of the crime charged, there was therefore no crime committed.<sup>[19]</sup> As there was no crime, any civil liability *ex delicto* cannot be awarded.

### **The Issues**

The central issue is the propriety of making a finding of civil liability in a criminal case for *estafa* when the accused is acquitted for failure of the prosecution to prove all the elements of the crime charged.

### **The Ruling of the Court**

We grant the petition.

#### *Civil Liability Arising From Crime*

Our laws recognize a bright line distinction between criminal and civil liabilities. A crime is a liability against the state. It is prosecuted by and for the state. Acts considered criminal are penalized by law as a means to protect the society from dangerous transgressions. As criminal liability involves a penalty affecting a person's liberty, acts are only treated criminal when the law clearly says so. On the other hand, civil liabilities take a less public and more private nature. Civil liabilities are claimed through civil actions as a means to enforce or protect a right or prevent or redress a wrong.<sup>[20]</sup> They do not carry with them the imposition of imprisonment as a penalty. Instead, civil liabilities are compensated in the form of damages.

Nevertheless, our jurisdiction recognizes that a crime has a private civil component. Thus, while an act considered criminal is a breach of law against the State, our legal system allows for the recovery of civil damages where there is a private person injured by a criminal act. It is in recognition of this dual nature of a criminal act that our Revised Penal Code provides that every person criminally liable is also civilly liable.<sup>[21]</sup> This is the concept of civil liability *ex delicto*.

This is echoed by the New Civil Code when it recognizes acts or omissions punished by law as a separate source of obligation.<sup>[22]</sup> This is reinforced by Article 30 of the same code which refers to the filing of a separate civil action to demand civil liability arising from a criminal offense.<sup>[23]</sup>

The Revised Penal Code fleshes out this civil liability in Article 104<sup>[24]</sup> which states

that it includes restitution, reparation of damage caused and indemnification for consequential damages.

*Rules of procedure for criminal and civil actions involving the same act or omission*

The law and the rules of procedure provide for a precise mechanism in instituting a civil action pertaining to an act or omission which is also subject of a criminal case. Our Rules of Court prescribes a kind of fusion such that, subject to certain defined qualifications, when a criminal action is instituted, the civil action for the recovery of the civil liability arising from the offense is deemed instituted as well.<sup>[25]</sup>

However, there is an important difference between civil and criminal proceedings that require a fine distinction as to how these twin actions shall proceed. These two proceedings involve two different standards of proof. A criminal action requires proof of guilt beyond reasonable doubt while a civil action requires a lesser quantum of proof, that of preponderance of evidence. This distinction also agrees with the essential principle in our legal system that while a criminal liability carries with it a corresponding civil liability, they are nevertheless separate and distinct. In other words, these two liabilities may co-exist but their existence is not dependent on each other.<sup>[26]</sup>

The Civil Code states that when an accused in a criminal prosecution is acquitted on the ground that his guilt has not been proven beyond reasonable doubt, a civil action for damages for the same act or omission may be filed. In the latter case, only preponderance of evidence is required.<sup>[27]</sup> This is supported by the Rules of Court which provides that the extinction of the criminal action does not result in the extinction of the corresponding civil action.<sup>[28]</sup> The latter may only be extinguished when there is a "finding in a final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist."<sup>[29]</sup> Consistent with this, the Rules of Court requires that in judgments of acquittal the court must state whether "the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist."<sup>[30]</sup>

Thus, whether an exoneration from the criminal action should affect the corresponding civil action depends on the varying kinds of acquittal. In *Manantan v. Court of Appeals*,<sup>[31]</sup> we explained —

Our law recognizes two kinds of acquittal, with different effects on the civil liability of the accused. First is an acquittal on the ground that the accused is not the author of the act or omission complained of. This instance closes the door to civil liability, for a person who has been found to be not the perpetrator of any act or omission cannot and can never be held liable for such act or omission. There being no *delict* civil liability *ex delicto* is out of the question, and the civil action, if any, which may be instituted must be based on grounds other than the *delict* complained of. This is the situation contemplated in Rule 111 of the Rules of Court. The second instance is an acquittal based on reasonable doubt on the guilt of the accused. In this case, even if the guilt of the accused has not been satisfactorily established, he is not exempt from civil liability which may

be proved by preponderance of evidence only. This is the situation contemplated in Article 29 of the Civil Code, where the civil action for damages is "for the same act or omission." Although the two actions have different purposes, the matters discussed in the civil case are similar to those discussed in the criminal case. However, the judgment in the criminal proceeding cannot be read in evidence in the civil action to establish any fact there determined, even though both actions involve the same act or omission. The reason for this rule is that the parties are not the same and secondarily, different rules of evidence are applicable. Hence, notwithstanding herein petitioner's acquittal, the Court of Appeals in determining whether Article 29 applied, was not precluded from looking into the question of petitioner's negligence or reckless imprudence.<sup>[32]</sup>

In *Dayap v. Sendiong*,<sup>[33]</sup> we further said —

The acquittal of the accused does not automatically preclude a judgment against him on the civil aspect of the case. The extinction of the penal action does not carry with it the extinction of the civil liability where: (a) the acquittal is based on reasonable doubt as only preponderance of evidence is required; (b) the court declares that the liability of the accused is only civil; and (c) the civil liability of the accused does not arise from or is not based upon the crime of which the accused is acquitted. However, the civil action based on delict may be deemed extinguished if there is a finding on the final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist or where the accused did not commit the acts or omission imputed to him.<sup>[34]</sup>

Hence, a civil action filed for the purpose of enforcing civil liability *ex delicto*, even if mandatorily instituted with the corresponding criminal action, survives an acquittal when it is based on the presence of reasonable doubt. In these instances, while the evidence presented does not establish the fact of the crime with moral certainty, the civil action still prevails for as long as the greater weight of evidence tilts in favor of a finding of liability. This means that while the mind of the court cannot rest easy in penalizing the accused for the commission of a crime, it nevertheless finds that he or she committed or omitted to perform acts which serve as a separate source of obligation. There is no sufficient proof that the act or omission is criminal beyond reasonable doubt, but there is a preponderance of evidence to show that the act or omission caused injury which demands compensation.

#### *Civil Liability Ex Delicto in Estafa Cases*

Our laws penalize criminal fraud which causes damage capable of pecuniary estimation through *estafa* under Article 315 of the Revised Penal Code. In general, the elements of *estafa* are:

- (1) That the accused defrauded another (a) by abuse of confidence, or (b) by means of deceit; and
- (2) That damage or prejudice capable of pecuniary estimation is caused to the offended party or third person.