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THIRD DIVISION

[G.R. No. 200055, September 10, 2014]

STANDARD INSURANCE CO., INC., PETITIONER, VS. ARNOLD CUARESMA AND JERRY B. CUARESMA, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision[1] and Resolution,[2] dated June 22, 2011 and January 16, 2012, respectively, of the Court of Appeals (*CA*) in CA-G.R. SP No. 117785.

The antecedent facts are as follows:

On March 20, 2004, two vehicles, one driven by Jefferson Cham and insured with petitioner Standard Insurance Co., Inc., and the other owned by respondent Arnold Cuaresma and driven by respondent Jerry B. Cuaresma, figured in an accident at North Avenue, Quezon City.[3] Consequently, the damage on the vehicle driven by Cham was repaired, the cost of which was borne by petitioner. Cham then executed a *Release of Claim* in favor of petitioner subrogating the latter to all his rights to recover on all claims, demands, and rights of action on account of the loss, damage, or injury sustained as a consequence of the accident from any person liable thereto.[4] Based on said document, petitioner, in its letter[5] dated April 15, 2004 addressed to respondents, demanded the payment of the sum spent on repairing the vehicle driven by Cham.

Meanwhile, on August 10, 2004, an Information[6] was filed with the Metropolitan Trial Court (*MeTC*) of Quezon City charging Cham of the crime of Reckless Imprudence Resulting in Damage to Property docketed as Criminal Case No. 020256. During the pendency thereof, on March 17, 2008, petitioner, claiming that respondents collided with Cham's vehicle in a reckless and imprudent manner, filed a Complaint[7] for Sum of Money with the MeTC of Manila against respondents, docketed as Civil Case No. 184854, demanding payment of the sum of P256,643.26 representing the cost of repairs on Cham's vehicle.

Respondents, however, were declared in default on December 12, 2008 for failure to file their responsive pleading to petitioner's Complaint despite several opportunities granted by the MeTC of Manila.[8] As a result, petitioner was allowed to present its evidence *exparte*.

Finding that petitioner sufficiently proved its claims by preponderance of evidence, the MeTC ruled in favor of petitioner in its Decision[9] dated January 8, 2010, the

dispositive portion of which reads:

> IN VIEW THEREOF, judgment is hereby rendered ordering defendants Arnold Cuaresma and Jerry B. Cuaresma, jointly and severally, to:
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> 1. Pay plaintiff the sum of TWO HUNDRED FIFTY-SIX THOUSAND SIX HUNDRED FORTY-THREE PESOS AND TWENTY-SIX CENTAVOS (Php256,643.26) with interest at the rate of 12% per annum from the date of the filing of the complaint;
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> 2. Pay plaintiff the sum of Php 10,000.00 as and for attorney's fees;
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> 3. Pay the costs of the suit.
>
> SO ORDERED.

The RTC, however, reversed the ruling of the MeTC in its Decision[10] dated September 17, 2010. Contrary to the findings of the MeTC, the RTC found that not only were there inconsistencies in the evidence presented by petitioner as to its corporate identity as well as the amount of the supposed cost of indemnification, but petitioner also failed to sufficiently prove that the proximate cause of the damage incurred by Cham's vehicle was respondents' fault or negligence. In addition, on respondents' argument that the instant case must be consolidated with the prior criminal suit they filed against Cham, the RTC disagreed and ruled that criminal and civil cases can proceed independently.[11]

On appeal, the CA likewise found that the evidence proffered by petitioner is insufficient to support its averment of negligence. Consequently, it affirmed the RTC's Decision and further denied petitioner's Motion for Reconsideration in its Resolution[12] dated January 16, 2012.

Hence, the present petition.

Petitioner essentially invokes the following ground to support its petition:

I.

> THE COURT OF APPEALS ERRED IN AFFIRMING THE CONCLUSIONS OF THE REGIONAL TRIAL COURT THAT PETITIONER'S EVIDENCE, SPECIFICALLY THE TESTIMONY OF ITS ASSURED, JEFFERSON CHAM AND ITS ASSISTANT VICE-PRESIDENT FOR CLAIMS, CLETO D. OBELLO, JR., AS WELL AS THE TRAFFIC ACCIDENT REPORT, ARE INSUFFICIENT TO PROVE ITS CLAIMS BY THE REQUIRED QUANTUM OF EVIDENCE.

Petitioner contends that the testimonies of its witnesses Cham and Obello sufficiently prove its claims, since the former has personal knowledge on the events that transpired during the vehicular accident and the latter was in a position to prove the amount incurred for the repair of the damages on Cham's vehicle. It also

argues that its failure to present SPO2 Felicisimo V. Cuaresma, the police investigator who prepared the traffic accident report submitted in evidence, is not fatal to its cause of action.

In their Comment,[13] respondents counter that the bare allegations of Cham on negligence cannot be deemed sufficient to prove petitioner's claim. They also claim that in order for the traffic accident report to obtain probative value, the police officer who prepared it must be identified in court. On a procedural matter, respondents allege that petitioner, in failing to disclose the pendency of the criminal suit against its assured Cham, is guilty of forum shopping.

Prefatorily, We address the issue of forum shopping in saying that the essence of forum shopping is the filing by a party against whom an adverse judgment has been rendered in one forum, seeking another and possibly a favorable opinion in another suit other than by appeal or special civil action for *certiorari.*[14] It is the act of filing multiple suits involving the same parties for the same cause of action, either simultaneously or successively for the purpose of obtaining a favorable judgment. [15] However, as the RTC already mentioned, there exists no forum shopping herein for the filing of the instant suit is expressly allowed to proceed independently of the criminal action filed by respondents.

In the similar case of *Casupanan v. Laroya*,[16] wherein as a result of a vehicular accident, a party involved therein filed a criminal case for reckless imprudence resulting in damage to property against the other party, who, in turn, filed a civil suit against the party instituting the criminal action, We held that the party filing the separate civil action cannot be liable for forum shopping in the following wise:

> **xxx However, there is no forum shopping in the instant case because the law and the rules expressly allow the filing of a separate civil action which can proceed independently of the criminal action.**
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> Laroya filed the criminal case for reckless imprudence resulting in damage to property based on the Revised Penal Code, while Casupanan and Capitulo filed the civil action for damages based on Article 2176 of the Civil Code. **Although these two actions arose from the same act or omission, they have different causes of action.** The criminal case is based on *culpa criminal* punishable under the Revised Penal Code, while the civil case is based on *culpa aquiliana* actionable under Articles 2176 and 2177 of the Civil Code. These articles on culpa aquiliana read:
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> > "Art. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a *quasi-delict* and is governed by the provisions of this Chapter.
> >
> > Art. 2177. Responsibility for fault or negligence under the preceding article is entirely separate and distinct from the civil liability arising from negligence under the Penal Code. But the

plaintiff cannot recover damages twice for the same act or omission of the defendant."

Any aggrieved person can invoke these articles provided he proves, by preponderance of evidence, that he has suffered damage because of the fault or negligence of another. Either the private complainant or the accused can file a separate civil action under these articles. There is nothing in the law or rules that state only the private complainant in a criminal case may invoke these articles.

Moreover, paragraph 6, Section 1, Rule 111 of the 2000 Rules on Criminal Procedure ("2000 Rules" for brevity) expressly requires the accused to litigate his counterclaim in a separate civil action, to wit:

> "SECTION 1. Institution of criminal and civil actions. - (a) x x x.
>
> *No counterclaim, cross-claim or third-party complaint may be filed by the accused in the criminal case, but any cause of action* ***which could have been the subject thereof may be litigated in a separate civil action****.*" (Italics supplied)

Since the present Rules require the accused in a criminal action to file his counterclaim in a separate civil action, there can be no forum-shopping if the accused files such separate civil action.

x x x x

The crucial question now is whether Casupanan and Capitulo, who are not the offended parties in the criminal case, can file a separate civil action against the offended party in the criminal case. Section 3, Rule 111 of the 2000 Rules provides as follows:

> "SEC 3. When civil action may proceed independently. - In the cases provided in Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines, the independent civil action may be brought by the ***offended party***. It shall proceed independently of the criminal action and shall require only a preponderance of evidence. In no case, however, may the offended party recover damages twice for the same act or omission charged in the criminal action." (Italics supplied)
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> x x x x

There is no question that the offended party in the criminal action can file an independent civil action for *quasi-delict* against the accused. Section 3 of the present Rule 111 expressly states that the "offended party" may bring such an action but the "offended party" may not recover damages twice for the same act or omission charged in the criminal action. Clearly, Section 3 of Rule 111 refers to the offended party in the criminal action, not to the accused.