

SECOND DIVISION

[G.R. No. 122150, March 17, 2003]

GEORGE (CULHI) HAMBON, PETITIONER, VS. COURT OF APPEALS AND VALENTINO U. CARANTES, RESPONDENTS.

DECISION

AUSTRIA-MARTINEZ, J.:

Petitioner George (Culhi) Hambon filed herein petition for review on *certiorari*, raising the following issues:

WHETHER OR NOT A CIVIL CASE FOR DAMAGES BASED ON AN INDEPENDENT CIVIL ACTION FALLING UNDER ARTICLE 32, 33, 34 AND 2176 OF THE NEW CIVIL CODE BE DULY DISMISSED FOR FAILURE TO MAKE RESERVATION TO FILE A SEPARATE CIVIL ACTION IN A CRIMINAL CASE FILED ARISING FROM THE SAME ACT OR OMISSION OF THE ACCUSED PURSUANT TO RULE 111, SECTION 1 OF THE RULES OF COURT, THE FAILURE TO MAKE RESERVATION BEING DUE TO THE FACT THAT THE CRIMINAL CASE WAS DISMISSED BEFORE THE PROSECUTION STARTED TO PRESENT EVIDENCE FOR FAILURE OF THE PRIVATE COMPLAINANT TO APPEAR DESPITE NOTICE

SHOULD A STRICT INTERPRETATION OF RULE 111, SECTION 1 OF THE RULES OF COURT WHICH INFRINGES ON A RIGHT OF A PARTY BASED ON A SUBSTANTIVE LAW BE PERMITTED WHEN TO DO SO WOULD DIMINISH, MODIFY AND/OR AMEND A SUBSTANTIVE RIGHT CONTRARY TO LAW.^[1]

The factual background that led to the filing of the petition is as follows:

On June 6, 1989, the petitioner filed before the Regional Trial Court of Baguio (Branch 6), a complaint for damages^[2] for the injuries and expenses he sustained after the truck driven by the respondent bumped him on the night of December 9, 1985.^[3] In answer thereto, respondent contended that the criminal case arising from the same incident, Criminal Case No. 2049 for Serious Physical Injuries thru Reckless Imprudence, earlier filed on January 8, 1986,^[4] had already been provisionally dismissed by the Municipal Trial Court of Tuba, Benguet on March 23, 1987, due to petitioner's lack of interest;^[5] and that the dismissal was with respect to both criminal and civil liabilities of respondent.^[6]

After trial, the Regional Trial Court rendered a decision, dated December 18, 1991, ruling that the civil case was not barred by the dismissal of the criminal case, and that petitioner is entitled to damages. The dispositive portion of the RTC decision reads:

WHEREFORE, Judgment is hereby rendered, sentencing defendant Valentino Cerantes to pay plaintiff George Hambon the sum of P60,000.00 for hospitalization and medical expenses and P10,000.00 for native rituals, as Actual Damages; the sum of P10,000.00 as Moral Damages, P5,000.00 as Exemplary Damages and P5,000.00 as Attorney's fees and costs.

SO ORDERED.^[7]

On appeal,^[8] the Court of Appeals, in its decision promulgated on March 8, 1995,^[9] reversed and set aside the decision of the trial court, and dismissed petitioner's complaint for damages.

According to the appellate court, since the petitioner did not make any reservation to institute a separate civil action for damages, it was impliedly instituted with the criminal case, and the dismissal of the criminal case carried with it the dismissal of the suit for damages, notwithstanding the fact that the dismissal was provisional as it amounted to an acquittal and had the effect of an adjudication on the merits. ^[10]

Hence, herein petition for review on certiorari under Rule 45 of the Rules of Court.

Petitioner argues that the ruling in the case of *Abellana v. Marave*^[11] should be observed, i.e., a civil action for damages may be filed and proceed independently of the criminal action even without reservation to file the same has been made;^[12] and that the requirement of reservation, as provided in Rule 111 of the Rules of Court, practically diminished/amended/modified his substantial right.^[13]

The petition must be denied.

Petitioner filed the complaint for damages on June 6, 1989. Hence, Section 1, Rule 111 of the 1985 Rules on Criminal Procedure, as amended in 1988,^[14] is the prevailing and governing law in this case, viz.:

SECTION 1. *Institution of criminal and civil actions.* – When a criminal action is instituted, the civil action for the recovery of civil liability is impliedly instituted with the criminal action, unless the offended party waives the civil action, reserves his right to institute it separately, or institutes the civil action prior to the criminal action.

Such civil action includes recovery of indemnity under the Revised Penal Code, and damages under Article 32, 33, 34 and 2176 of the Civil Code of the Philippines arising from the same act or omission of the accused.

. . .

Under the foregoing rule, civil actions to recover liability arising from crime (*ex delicto*) and under Articles 32, 33, 34 and 2176 of the Civil Code (*quasi-delict*) are deemed impliedly instituted with the criminal action unless waived, reserved or previously instituted.

Thus, in *Maniago v. Court of Appeals*,^[15] the Court ruled that the right to bring an