



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**SUPREME TRANSPORTATION
LINER, INC. and FELIX Q. RUZ,**
Petitioners,

G.R. No. 200444

Present:

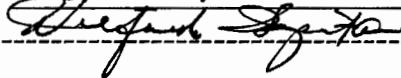
LEONARDO-DE CASTRO,
Chairperson,
BERSAMIN,
LEONEN,
REYES, JR., and
GISMUNDO, JJ.

- versus -

ANTONIO SAN ANDRES,
Respondent.

Promulgated:

August 15, 2018



x-----x

DECISION

BERSAMIN, J.:

The requirement for the reservation of the civil action does not anymore apply to the independent civil actions under Articles 32, 33, 34 and 2176 of the *Civil Code*. Such actions may be filed at anytime, provided the plaintiff does not recover twice upon the same act or omission.

The Case

Petitioners Supreme Transportation Liner Inc. and Felix Q. Ruz hereby assail the decision promulgated on January 27, 2011,¹ whereby the Court of Appeals (CA) affirmed the judgment rendered in Civil Case No. T-2240 on November 24, 2008 by the Regional Trial Court in Tabaco City dismissing their counterclaim on the ground that to allow their counterclaim

¹ *Rollo*, pp. 23-34; penned by Associate Justice Marlene Gonzales-Sison, and concurred in by Associate Justice Noel G. Tijam (now a Member of the Court) and Associate Justice Danton Q. Bueser.

was tantamount to double recovery of damages, considering that the same was not prosecuted in the criminal action against the respondent's driver.²

Antecedents

The relevant factual background was summarized by the CA thusly:

On November 5, 2002, at around 5:00 in the morning, Ernesto Belchez was driving a passenger bus, Mabel Tours Bus with body number 1896-C and plate Number TB EBJ (old)/TB EVL-648 (new), owned by [respondent] Antonio San Andres, along Maharlika Highway in Barangay Malabanban Norte, Candelaria, Quezon, going towards the direction of Manila. While traversing Maharlika Highway, the Mabel Tours Bus sideswiped a Toyota Revo it was overtaking. The Mabel Tours Bus immediately swerved to the left lane but in the process, it hit head-on the Supreme Bus owned and registered in the name of [petitioner] Supreme Bus Transportation Line, Inc., and driven by [petitioner] Felix G. Ruz, that was negotiating in the opposite lane. Because of the strong impact of the incident, the Supreme Bus was pushed to the side of the road and the Mabel Tour Bus continuously moved until it hit a passenger jeepney that was parked on the side of the road which later on fell on the canal. Nobody died but all the vehicles were damaged.

Investigation of the incident and photographs of the damaged buses as well as the other two (2) vehicles were conducted and undertaken by SPO1 Rafael Ausa of Candelaria, Municipal Police Station.

[Respondent] then brought the Mabel Tours Bus to the RMB Assembler and Body Builder to have it repaired. The cost of repair was estimated in the amount of One Hundred Forty Four Thousand and Five Hundred Pesos (Php144,500.00).

On December 12, 2002, a complaint for damages before the Court a quo was instituted by [respondent] Antonio San Andres against [petitioners] alleging actual damage to Mabel Tours Bus and unrealized profits for the non-use of the Mabel Tours Bus at the time it underwent repairs in the amount of ₱144,500.00 and ₱150,000.00, respectively. Claims for attorney's fees of ₱30,000.00, appearance fee of ₱1,000.00, litigation expenses of ₱20,000.00 and cost of the suit were also lodged in the complaint.

x x x x

Subsequently, [petitioners] filed their Answer with Counterclaim. They alleged among others that plaintiff has no cause of action against them; the proximate cause of the vehicular accident is the reckless imprudence of the [respondent's] driver, Ernesto Belchez operated the Mabel Tours Bus recklessly and in violation of traffic laws and regulations in negotiating the overtaking of another vehicle without regard to the rightful vehicle occupying the right lane coming from the opposite direction resulting to head on collision on the lane of defendant Supreme

² Id. at 47-64; penned by Judge Arnulfo B. Cabredo.

Bus and, at the time of the accident, [respondent] operated the Mabel Tours Bus outside his franchise and without a registered plate.

By way of counterclaim, [petitioner] Supreme Transportation Liner, Inc. alleged that it suffered damages in the aggregate amount of ₱500,000.00 and another ₱100,000.00 for the medical expenses of its employees and passengers. The unwarranted filing of the case forced them to secure the services of a counsel for ₱50,000.00 plus appearance fee of ₱5,000.00 and litigation expenses in the amount of ₱3,000.00 including traveling expenses.

x x x x

After all the issues have been joined, the case was set for pre-trial conference wherein the parties, in an effort to amicably settle the case, referred the case to conciliation. The parties, however, failed to hammer out an amicable settlement. Hence, trial on the merits ensued.

[The parties] presented oral and documentary evidence to support their claims and contentions. [Respondent] presented himself and Ernesto Belchez who later became a hostile witness. On the part of [petitioner and Ruz], Felix Ruz, SPO1 Rafael B. AUSA and Assistant for Operations of [petitioner] Supreme Transportation Liner, Inc., Jessi Alvarez, were presented.

In the course of trial, Jessi Alvarez stated that he filed a criminal complaint for reckless imprudence resulting to damage to property against Ernesto Belchez before the Court in Candelaria, Quezon. The case is now terminated and the accused was convicted because of his admission of the crime charged. In the said criminal complaint, he did not reserve their civil claim or asked (sic) the fiscal to reserve it, which, if itemized, would also be the amount of their counterclaim in the present civil action filed by [respondent]. He added that they did not receive any compensation for the civil aspect of the criminal case, and although the Supreme Bus was covered by insurance, they did not claim for any reimbursement in connection with the subject incident.³

Judgment of the RTC

On November 24, 2008, the RTC rendered judgment dismissing the respondent's complaint as well as the petitioners' counterclaim,⁴ decreeing:

From the foregoing, the instant complaint for damages filed by the plaintiff is hereby dismissed for having failed to prove liability on the part of the defendant. The counterclaim that was filed by the defendants hereof is also dismissed for failure to adhere to procedural requirements.

SO ORDERED.⁵

³ Supra note 1, at 24-26.

⁴ Supra note 2.

⁵ Id. at 64.

The RTC opined that the respondent was not able to prove the petitioners' liability;⁶ and that the petitioners' counterclaim should also be dismissed pursuant to Section 1, Rule 111 of the *Rules of Court*,⁷ whose pertinent portions the RTC quoted in its judgment as follows:

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 institute 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.

x x x x

The reservation of the right to institute the separate civil actions shall be made before the prosecution starts to present its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation.⁸

The RTC indicated that the petitioners' failure to reserve the right to institute a separate civil action precluded their right to recover damages from the respondent through their counterclaim.⁹

Aggrieved, the petitioners appealed, submitting that:

I.
THE TRIAL COURT ERRED IN NOT GRANTING THE
COUNTERCLAIM

II.
THE TRIAL COURT ERRED IN DENYING THE COUNTERCLAIM
BECAUSE NO RESERVATION WAS MADE IN CRIMINAL CASE
NO. 02-253 FILED AGAINST PLAINTIFF-APPELLEE'S DRIVER
ERNESTO BELCHEZ.¹⁰

Decision of the CA

In the assailed decision promulgated on January 27, 2011,¹¹ the CA dismissed the petitioners' appeal, stating that the RTC had correctly ruled

⁶ Id. at 59.

⁷ Id. at 63.

⁸ Id.

⁹ Id. at 63-64.

¹⁰ *Rollo*, p. 27.

¹¹ *Supra* note 1.

that the counterclaim could not prosper because their recourse was limited to the enforcement of the respondent's subsidiary liability under Article 103 of the *Revised Penal Code*;¹² that "to allow the counterclaim of [petitioners] is tantamount to double recovery of damages, a prohibition under Article 2177 of the New Civil Code and Sec. 3, Rule 111 of the Rules;"¹³ and that their failure to reserve the separate civil action meant that their right to recover under Article 2176 of the *Civil Code* was deemed instituted with the criminal action.¹⁴

The CA denied the petitioners' motion for reconsideration through the resolution promulgated on January 26, 2012.¹⁵

Hence, this appeal.

Issue

The Court is called upon to decide whether or not the petitioners' counterclaim was correctly denied by the RTC.

Ruling of the Court

The appeal is meritorious.

The petitioners' counterclaim is allowed and should not have been dismissed by the RTC and the CA despite their failure to reserve the right to file a separate civil action in the criminal case they had brought against respondent's driver. However, whether or not they could recover damages upon their counterclaim presents a different story, as they should first show that they will not recover damages twice for the same incident.

1.

Petitioners' counterclaim, being in the nature of an independent civil action, required no prior reservation

As we see it, the CA concluded that the petitioners' cause of action should be limited to the recovery of civil liability *ex delicto* by virtue of their having initiated against the respondent's driver the criminal complaint for criminal negligence under Article 365 of the *Revised Penal Code*. The CA was seemingly of the opinion that the petitioners' recourse against the

¹² Id. at 31.

¹³ Id.

¹⁴ Id. at 31-32.

¹⁵ Id. at 36-37.

respondent was limited to recovering from him, as the driver's employer, his subsidiary liability under and pursuant to Article 103¹⁶ of the *Revised Penal Code*. Moreover, the CA pointed out that the petitioners' failure to reserve the civil aspect of the criminal case proscribed them from instituting a separate civil action based on Article 2176 of the *Civil Code*, to wit:

Corollary, appellants should have reserved the civil aspect of the criminal case they have filed. Without so doing, they were deemed to have elected to recover damages from the bus driver on the basis of the crime. Therefore, the right of appellants to institute a separate civil case to recover liability from appellee based under Article 2176 of the Civil Code is deemed instituted with the criminal action. Evidently, appellant's cause of action against appellee will be limited to the recovery of the latter's subsidiary liability under Art. 103 of the Revised Penal Code. x x x¹⁷

The CA thereby erred. It incorrectly appreciated the nature of the petitioners' cause of action as presented in their counterclaim.

We only need to look at the facts alleged in the petitioners' counterclaim to determine the correct nature of their cause of action.¹⁸ The purpose of an action or suit and the law to govern the suit are to be determined not by the claim of the party filing the action, made in his argument or brief, but rather by the complaint itself, its allegations and prayer for relief.¹⁹

The counterclaim relevantly reads:

x x x x

5. That the proximate cause of the subject vehicular accident is the reckless imprudence of the plaintiff's driver, one ERNESTO BELCHEZ, by operating said Mabel Tours bus recklessly and in violation of traffic laws and regulations in negotiating the overtaking of another vehicle without regards (sic) to the rightful vehicle occupying the right lane coming from the opposite direction resulting to head on collision (sic) on the lane of defendant's SUPREME bus;

6. That at the time of the accident, plaintiff operated the subject Mabel Tour bus outside his franchise, hence, in violation of his franchise and allied rules and regulations; operated the same without registered plate and using the route of another franchise holder; and

¹⁶ Article 103. *Subsidiary civil liability of other persons*. — The subsidiary liability established in the next preceding article shall also apply to employers, teachers, persons, and corporations engaged in any kind of industry for felonies committed by their servants, pupils, workmen, apprentices, or employees in the discharge of their duties.

¹⁷ *Supra* note 1, at 31.

¹⁸ *Dulay v. Court of Appeals*, G.R. No. 108017, April 3, 1995, 243 SCRA 220, 227.

¹⁹ *Cancio, Jr. v. Isip*, G.R. No. 133978, November 12, 2002, 391 SCRA 393, 401.

COUNTERCLAIM

7. Defendants replead the precedings (sic) paragraphs as they may be relevant;

8. That as a result of plaintiff's violation of his franchise and gross negligence of his driver, the defendant's SUPREME bus suffered damage in the aggregate amount of ₱500,000.00; medical expenses for its employee and passengers in the amount of ₱100,000.00;²⁰

x x x x

Contrary to the conclusion thereon by the CA, the petitioners' cause of action was upon a quasi-delict. As such, their counterclaim against the respondent was based on Article 2184,²¹ in relation to Article 2180²² and Article 2176,²³ all of the *Civil Code*. It is relevant to state that even the RTC itself acknowledged that the counterclaim was upon a quasi-delict, as its ratiocination bears out, to wit:

The question is whether despite the absence of such reservation, private respondent may nonetheless bring an action for damages against the plaintiff under the pertinent provisions of the Civil Code, to wit:

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. 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

²⁰ *Rollo*, pp. 45-46.

²¹ Article 2184. In motor vehicle mishaps, the owner is solidarily liable with his driver, if the former, who was in the vehicle, could have, by the use of the due diligence, prevented the misfortune. It is disputably presumed that a driver was negligent, if he had been found guilty of reckless driving or violating traffic regulations at least twice within the next preceding two months.

If the owner was not in the motor vehicle, the provisions of article 2180 are applicable. (n)

²² Article 2180. The obligation imposed by article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.

Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

The State is responsible in like manner when it acts through a special agent; but not when the damage has been caused by the official to whom the task done properly pertains, in which case what is provided in article 2176 shall be applicable.

²³ Article 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. (1902a)

x x x x

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned task, even though the former are not engaged in any business or industry.

Art. 2177 states that responsibility for fault or negligence under the above-quoted provisions is entirely separate and distinct from the civil liability arising from negligence under the Revised Penal Code.

However, Rule 111 of the Revised Rules of Criminal Procedure, while reiterating that a civil action under the above quoted provisions of the New Civil Code may be brought separately from the criminal action, provides that the right to bring it must be reserved.²⁴

Yet, the RTC likewise erred on its outcome because its ratiocination was founded on the obsolete version of the *Rules of Court*. By the time when the RTC rendered judgment on November 24, 2008, the *revised* relevant rule of procedure had already been promulgated and taken effect,²⁵ and it had specifically deleted the erstwhile reservation requirement vis-à-vis the independent civil actions, as follows:

Section 1. *Institution of Criminal and Civil Actions*. — (a) When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

The reservation of the right to institute separately the civil action shall be made before the prosecution starts presenting its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation.

When the offended party seeks to enforce civil liability against the accused by way of moral, nominal, temperate, or exemplary damages without specifying the amount thereof in the complaint or information, the filing fees therefor shall constitute a first lien on the judgment awarding such damages.

Where the amount of damages, other than actual, is specified in the complaint or information, the corresponding filing fees shall be paid by the offended party upon the filing thereof in court.

Except as otherwise provided in these Rules, no filing fees shall be required for actual damages.

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

²⁴ *Rollo*, pp. 62-63.

²⁵ Effective December 1, 2000, A.M. No. 00-5-03-SC.

have been the subject thereof may be litigated in a separate civil action.
(1a)

(b) The criminal action for violation of Batas Pambansa Blg. 22 shall be deemed to include the corresponding civil action. No reservation to file such civil action separately shall be allowed.

Upon filing of the aforesaid joint criminal and civil actions, the offended party shall pay in full the filing fees based on the amount of the check involved, which shall be considered as the actual damages claimed. Where the complaint or information also seeks to recover liquidated, moral, nominal, temperate or exemplary damages, the offended party shall pay additional filing fees based on the amounts alleged therein. If the amounts are not so alleged but any of these damages are subsequently awarded by the court, the filing fees based on the amount awarded shall constitute a first lien on the judgment.

Where the civil action has been filed separately and trial thereof has not yet commenced, it may be consolidated with the criminal action upon application with the court trying the latter case. If the application is granted, the trial of both actions shall proceed in accordance with section 2 of this Rule governing consolidation of the civil and criminal actions.

The error committed by the CA emanated from its failure to take into consideration that the omission of the driver in violation of Article 365 of the *Revised Penal Code* could give rise not only to the obligation *ex delicto*,²⁶ but also to the obligation based on *culpa aquiliana* under Article 2176 of the *Civil Code*. Under the factual antecedents herein, both obligations rested on the common element of negligence. Article 2177²⁷ of the *Civil Code* and Section 3,²⁸ Rule 111 of the *Rules of Court* allow the injured party to prosecute both criminal and civil actions simultaneously. As clarified in *Casupanan v. Laroya*:²⁹

Under Section 1 of the present Rule 111, what is “deemed instituted” with the criminal action is only the action to recover civil liability arising from the crime or *ex-delicto*. **All the other civil actions under Articles 32, 33, 34 and 2176 of the Civil Code are no longer “deemed instituted,” and may be filed separately and prosecuted independently even without any reservation in the criminal action. The failure to make a reservation in the criminal action is not a waiver of the right to file a separate and independent civil action based on these articles of the Civil Code.** The prescriptive period on the civil actions based on these articles of the Civil Code continues to run

²⁶ Article 100. *Civil Liability of Person Guilty of Felony*. — Every person criminally liable for a felony is also civilly liable.

²⁷ Article 2177. Responsibility for fault or negligence under the preceding article [2176] 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. (n)

²⁸ Section 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. (3a)

²⁹ G.R. No. 145391, August 26, 2002, 388 SCRA 28, 37.

even with the filing of the criminal action. Verily, the civil actions based on these articles of the Civil Code are separate, distinct and independent of the civil action “deemed instituted” in the criminal action. (Bold emphasis supplied)

The foregoing notwithstanding, the petitioners as the injured parties have to choose the remedy by which to enforce their claim in the event of favorable decisions in both actions. This is because Article 2177 of the *Civil Code* bars them from recovering damages twice upon the same act or omission. As ruled in *Safeguard Security Agency, Inc. v. Tangco*:³⁰

An act or omission causing damage to another may give rise to two separate civil liabilities on the part of the offender, *i.e.*, (1) civil liability *ex delicto*, under Article 100 of the Revised Penal Code; and (2) independent civil liabilities, such as those (a) not arising from an act or omission complained of as a felony, *e.g.*, *culpa* contractual or obligations arising from law under Article 31 of the Civil Code, intentional torts under Articles 32 and 34, and *culpa aquiliana* under Article 2176 of the Civil Code; or (b) where the injured party is granted a right to file an action independent and distinct from the criminal action under Article 33 of the Civil Code. Either of these liabilities may be enforced against the offender subject to the caveat under Article 2177 of the Civil Code that the offended party cannot recover damages twice for the same act or omission or under both causes.

As can be seen, the latest iteration of Rule 111, unlike the predecessor, no longer includes the independent civil actions under Articles 32, 33, 34, and 2176 of the *Civil Code* as requiring prior reservation to be made in a previously instituted criminal action. Had it been cautious and circumspect, the RTC could have avoided the error.

2.

Petitioners should first show that they would not recover damages twice from the same act or omission.

Nonetheless, we are constrained not to award outright the damages prayed for by the petitioners in their counterclaim.

Article 2177 of the *Civil Code* and the present version of Section 3, Rule 111 of the *Rules of Court*, which is the applicable rule of procedure, expressly prohibit double recovery of damages arising from the same act or omission. The petitioners’ allegation that they had not yet recovered damages from the respondent was not controlling considering that the criminal case against the respondent’s driver had already been concluded. It remains for the petitioners to still demonstrate that the RTC as the trial court

³⁰ G.R. No. 165732, December 14, 2006, 511 SCRA 67, 78.

did not award civil damages in the criminal case. Consequently, Civil Case No. T-2240 should be remanded to the RTC for further proceedings, if only to afford to the petitioners the opportunity to present evidence on their counterclaim subject to the prohibition against double recovery of damages.


WHEREFORE, the Court **GRANTS** the appeal; **REVERSES** and **SETS ASIDE** the decision promulgated on January 27, 2011; and **REMANDS** Civil Case No. T-2240 to the Regional Trial Court in Tabaco City for further proceedings to allow the petitioners to present evidence on their counterclaim, subject to the foregoing clarifications.

No pronouncement on costs of suit.


SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

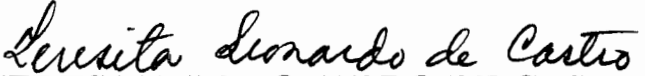

MARVIC M.V.F. LEONEN
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

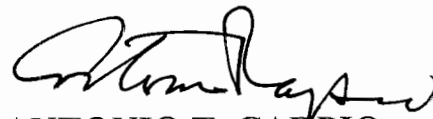
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

Acting Chief Justice