



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 6, 2022, which reads as follows:

“G.R. No. 249864 (*July P. Alterado v. Rustan Commercial Corporation*). – This Petition for Review on *Certiorari*¹ seeks to reverse and set aside the Decision dated 20 February 2019² and Resolution dated 14 October 2019³ of the Seventh Division of the Court of Appeals (CA) in CA-G.R. SP No. 155347. The CA annulled and set aside the Omnibus Order dated 09 January 2018⁴ and Order dated 15 February 2018⁵ of Branch 133, Regional Trial Court (RTC), Makati City, in Criminal Case No. 13-841.

Antecedents

Petitioner July P. Alterado (Alterado), in Criminal Case No. 13-841, was convicted of the crime of Qualified Theft for stealing 413 pieces of Tiffany & Co. jewelry from her employer, respondent Rustan Commercial Corporation (RCC). The *fallo* of the RTC Decision⁶ dated 15 December 2015 reads:

WHEREFORE, in view of the foregoing, the Court find (sic) accused JULY P. ALTERADO GUILTY BEYOND REASONABLE DOUBT for (sic) the crime of Qualified Theft and is hereby sentenced to suffer the penalty of RECLUSION PERPETUA, with all the accessories of the penalty imposed under Article 40 of the Revised

¹ *Rollo*, pp. 10-28.

² *Id.* at 29-35; penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Sesonando E. Villon and Germano Francisco D. Legaspi.

³ *Id.* at 36-37; penned by Associate Justice Edwin D. Sorongon and concurred in by Associate Justices Mario V. Lopez (now Member of this Court) and Germano Francisco D. Legaspi.

⁴ *Id.* at 74-79; penned by Presiding Judge Elpidio R. Calis.

⁵ *Id.* at 80-82.

⁶ *Id.* at 38-56; penned by Presiding Judge Elpidio R. Calis. It is noted that the Decision indicates that it was rendered by Judge Calis as Presiding Judge of Branch 113. Subsequent Orders issued by Judge Calis, however, indicates a different branch, that is, Branch 133.

Penal Code. Accused is further ordered to restate the private complainant, RUSTAN COMMERCIAL CORPORATION, the total amount of THIRTY SIX MILLION THREE HUNDRED TWENTY EIGHT THOUSAND FIFTY PESOS (PHP36,328,050.00) covering the amount of the stolen jewelry subject in (sic) the instant case.

Accused is likewise ordered to pay ONE HUNDRED THOUSAND PESOS (PHP100,000.00) as exemplary damages.

The BJMP Makati City who is in custody of accused JULY P. ALTERADO is ordered to commit the said accused without further delay at the Correctional Institute for Women, Mandaluyong City.

SO ORDERED.⁷

Alterado's criminal conviction was reversed on appeal (CA-G.R. CR HC No. 08193) by the Seventeenth Division of the CA in a Decision dated 24 March 2017.⁸ The dispositive portion of the CA's Decision states:

WHEREFORE, premises considered, the appealed Decision dated 15 December 2015 of the Regional Trial Court (RTC), Branch 113, Makati City in Criminal Case No. 13-841, convicting accused-appellant July P. Alterado of the crime of qualified theft, is **REVERSED and SET ASIDE**. Accused-appellant July P. Alterado is **ACQUITTED** of the crime charged on reasonable doubt. The City Warden of the Makati City Jail is **DIRECTED** to cause the release of July P. Alterado **without DELAY**, unless she is being lawfully held for another cause, and to **INFORM THE** (sic) Court of her release or the reasons for her continued confinement within ten (10) days from notice of this Decision. No costs.⁹

Subsequently, or on 02 November 2017, RCC filed a motion¹⁰ for the execution of the RTC Decision *with respect to Alterado's civil liability*, contending that the latter was acquitted merely on reasonable doubt and that there was no finding by the CA that the facts from which the civil liability may arise did not exist.¹¹

Alterado, for her part, filed a motion¹² seeking the inhibition of RTC Judge Elpidio R. Calis (Judge Calis). According to Alterado, she could not imagine how Judge Calis could be impartial as to her, seeing that he had already previously adjudged her guilty of the crime charged.¹³

⁷ Id. at 55-56.

⁸ Id. at 57-73; penned by Associate Justice Socorro B. Inting and concurred by Associate Justices Romeo F. Barza and Maria Filomena D. Singh (now a Member of this Court).

⁹ Id. at 72.

¹⁰ Id. at 191-195.

¹¹ Id. at 30.

¹² Id. at 75.

¹³ Id. at 63-65.

Ruling of the RTC

In its Omnibus Order dated 09 January 2018,¹⁴ the RTC denied both motions. In denying RCC's motion for execution, the RTC declared that when the CA reversed the trial court's finding of guilt, it made no further mention of Alterado's liability for payment of civil liability in the amount of ₱36,328,050.00 and ₱100,000.00 as exemplary damages. Since the dispositive portion of said Decision is controlling insofar as execution of the same is concerned, RCC's motion must be denied.¹⁵

Anent Alterado's motion for inhibition, the RTC held that mere imputation of bias is not enough ground for a judge to inhibit, especially when the charge is without basis.¹⁶

RCC moved for reconsideration.¹⁷ This, however, was denied in an Order dated 15 February 2018.¹⁸

Aggrieved, RCC filed a Special Civil Action for *Certiorari*, docketed as CA-GR. SP No. 155347, with the CA.¹⁹

Ruling of the CA

On 20 February 2019, the CA granted RCC's petition,²⁰ to wit:

WHEREFORE, the instant petition for certiorari is **GRANTED**. The twin orders of the Regional Trial Court (RTC) of Makati City, Branch 133, dated January 9, 2018, and February 15, 2018 are hereby **ANNULLED and SET ASIDE**. Accordingly, the RTC is directed to cause the execution of its December 15, 2015 Decision with respect to civil liability of private respondent.

SO ORDERED.²¹

In granting RCC's petition, the CA held that Alterado's acquittal did **not** carry with it the extinction of her civil liability:

Here, [Alterado] was charged with qualified theft for allegedly stealing jewelry amounting to Php36,328,050.00 from [RCC]. Since [RCC] did not waive the civil action or reserve the right to institute it separately or instituted a civil action prior to the criminal action, then the civil action was deemed instituted together with the criminal action. After trial, the RTC found her criminal (sic) liable and accordingly imposed upon her the penalty of imprisonment. The RTC also adjudged her civilly liable, which, pursuant to Article 104 of the Revised Penal Code, may include:

¹⁴ Id. at 73-79.

¹⁵ Id. at 77-78.

¹⁶ Id. at 79.

¹⁷ Id. at 80.

¹⁸ Id. at 80-82.

¹⁹ Id. at 29.

²⁰ Id. at 29-35.

²¹ Id. at 34-35.

1) restitution; 2) reparation of the damage caused; and 3) indemnification for consequential damages. So that apart from decreeing [Alterado]'s imprisonment, the RTC also ordered her to pay Php36,328,050.00 as restitution for the stolen jewelry, and Php100,000.00 as exemplary damages by way of example or correction for the public good pursuant to Articles 2229 and 2230 of the Civil Code.

x x x x

As mentioned earlier, the Seventeenth (17th) Division of this Court granted the appeal of [Alterado] and acquitted her on the ground of reasonable doubt and ordered her release from confinement without delay. Noticeably, **the *fallo* of the said decision only reversed and set aside the conviction of [Alterado] of the crime of qualified theft but without any mention of her civil liability. The body of the decision is conspicuously silent on this point as there is no pronouncement that the act from which civil liability might arise did not exist and did not order the deletion of the RTC's finding of [Alterado]'s civil liability. In fact, the decision of the Court of Appeals' Seventeenth Division did not contain any statement reversing the RTC's finding on [Alterado]'s civil liability. Thus, the RTC's ruling on the civil aspect of the case remained unchallenged and undisturbed.**²²

Alterado filed a Motion for Reconsideration,²³ but this was denied by the CA in its Resolution dated 14 October 2019.²⁴

Hence, this Petition.

Issue

The sole issue in this case is whether the CA erred in reversing the Omnibus Order dated 09 January 2018 and Order dated 15 February 2018 of the RTC and ordering the execution of its Decision dated 15 December 2015 with respect to Alterado's civil liability.²⁵

Ruling of the Court

We **GRANT** the petition.

Article 10 of the Revised Penal Code provides that every person criminally liable 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 mandatorily fused, they are, in truth, separate actions whose existences are not dependent on each other.²⁶

²² Id. at 32-34. Emphasis supplied.

²³ Id. at 36-37.

²⁴ Id.

²⁵ Id. at 15.

²⁶ *Dy v. People*, 792 Phil. 672, 676 (2016).

Thus, even if an accused is found not criminally liable, it does not necessarily mean that he or she will not likewise be held civilly liable. This is because extinction of the penal action does not carry with it the extinction of the civil action. This rule more specifically applies when: (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 was acquitted.²⁷

In *Manantan v. Court of Appeals*,²⁸ 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 [or she] is not exempt from civil liability which may be proved by preponderance of evidence only.**²⁹ (Emphases supplied)

Alterado insists the CA erred in granting RCC's claim for civil liability considering that the RTC Decision dated 15 December 2015 adjudging her guilty of Qualified Theft was reversed and set aside by the CA in CA-G.R. CR HC No. 08193. She argues that a claim of obligation from another, being onerous in nature, cannot be presumed without violating her right to due process.³⁰ RCC cannot base its claimed right or relief either on the RTC Decision, which was already annulled,³¹ or on the CA Decision acquitting her for lack of any discussion as to the basis and the reason for the grant of said civil liability. Alterado maintains that the CA would not have had any factual basis to support the imposition of the amount claimed by RCC as civil liability since RCC did not present any evidence, by way of receipts, invoices, expert valuations or insurance claims, to prove the value of the 413 pieces of jewelry allegedly stolen.³²

RCC, on the other hand, simply claims that Alterado's acquittal, based on reasonable doubt, did not absolve her from civil liability.³³

²⁷ *Wong v. Wong*, G.R. No. 237159, 29 September 2021.

²⁸ 403 Phil. 298 (2001).

²⁹ *Id.* at 308-309.

³⁰ *Rollo*, p. 17.

³¹ *Id.* at 16.

³² *Id.* at 18-23.

³³ *Id.* at 186-187.

The crux of the controversy revolves around the *nature* of Alterado's acquittal. An examination of the CA Decision dated 24 March 2017 acquitting Alterado is therefore in order.

RCC correctly noted that the dispositive portion of the CA Decision reversing Alterado's conviction for Qualified Theft explicitly states that the acquittal was on reasonable doubt.³⁴ A careful reading of this Decision, however, would reveal that Alterado's acquittal was, in fact, based on its finding that the prosecution failed to establish that Alterado stole the pieces of jewelry in question. We quote said Decision in pertinent part:

x x x [t]he trial court relied on the following circumstantial evidence in convicting [Alterado] of the crime of qualified theft, to wit:

1. That [Alterado] is the lone stock custodian of the pieces of jewelry subject of this case;
 - (1) That [Alterado] has access to the pieces of jewelry and is in possession of the key to the inner door of the steel vault where these are kept;
 - (2) That there were instances that prosecution witness Ana Biscocho did not check the items taken out from and returned inside the steel vault giving [Alterado] the opportunity to take the subject pieces of jewelry; and
 - (3) That [Alterado] flew to Davao and from this the trial court inferred the former's guilt.

x x x In its decision, the trial court stated that these circumstances, when taken as a whole, constitute an unbroken chain that leads to the fair and reasonable conclusion that [Alterado] is guilty of taking the pieces of jewelry subject of this case.

This Court is not convinced.

x x x x

The Court finds that the pieces of circumstantial evidence relied upon by the trial court are insufficient to convict [Alterado] of the crime of qualified theft.

In the first circumstance, it is noteworthy that [Alterado] is not the sole custodian of the pieces of jewelry subject of this case. As a matter of fact, there were three of them who have access to the steel vault where the pieces of jewelry were kept, namely: [Alterado], the two managers of [RCC], Biscocho and Laguilles. It must be remembered that managers Biscocho and Laguilles are in possession of the combination key which is necessary in opening the outer door of the steel vault, while [Alterado] is in possession of a key essential to facilitate the opening of the inner door of the steel vault, where the pieces of jewelry are kept.

In the second circumstance, although [Alterado] has access to the steel vault, said access is supervised, limited, and not exclusive. [Alterado]'s access is supervised because every time she would open the

³⁴ Id. at 72.

steel vault, either of her managers Biscocho and Laguilles should be present. [Alterado]'s access is limited because she would not be able to open the steel vault door without either of her managers Biscocho and Laguilles opening the outer door of the steel vault. Either of [Alterado]'s managers Biscocho and Laguilles has control as to when the steel vault will be opened, and what articles will be taken out from the steel vault. [Alterado]'s access is also not exclusive because she and her managers Biscocho and Laguilles share important keys which are essential in opening the doors of the steel vault, where the pieces of jewelry were kept. [Alterado]'s supervised, limited, and not exclusive access also belied her alleged grave abuse of confidence.

In the third instance, the Court notes that the testimony of the prosecution's witness Biscocho that there were instances when she did not check the items taken out from and returned inside the steel vault is self-serving. It speaks of her negligence rather than [Alterado]'s opportunity to take the pieces of jewelry subject of this case. [Alterado]'s opportunity is negated by [RCC]'s procedure of subject [Alterado] to daily clearance, consisting of a station inspection, body frisking, and bag search, while her managers Biscocho and Laguilles are immune from the same.

In the fourth circumstance, [Alterado] explained that she flew to Davao with her family when her husband arrived from abroad to visit her father-in-law. The Court finds such reason to be acceptable. The trial court might have some hesitation in accepting her explanation for her choice of action. Nevertheless, under the circumstances, a cloud of uncertainty lingers.

The pieces of circumstantial evidence cited by the trial court do not form an unbroken chain that points to [Alterado] as the author of the crime; hence, its conclusion becomes merely conjectural. Notably, the prosecution failed to establish the element of unlawful taking by [Alterado]. Having failed to do so, there is no need to discuss the other elements of qualified theft.³⁵

As is clear from the foregoing extended discussion, the CA found that "the act or omission from which the civil liability may arise," that is, the unlawful taking of the subject pieces of jewelry by Alterado, did not exist.³⁶ While the *fallo* generally prevails in cases of conflict, where the inevitable conclusion from the body of the decision is so clear as to show that there was a mistake in the dispositive portion, the body of the decision will prevail.³⁷ Such happens to be the case here.

This, to Our mind, also sufficiently explains why, as pointed out by RCC, there is nothing in the said Decision that specifically discussed the matter of civil liability. With the finding of lack of proof that Alterado took the subject jewelry, there was simply no need for the CA to discuss the matter of civil liability.

³⁵ Id. at 69-72. Emphases and underscoring supplied.

³⁶ *Daturaya v. Oliva*, 749 Phil. 531, 538 (2014).

³⁷ *Lazaro v. People*, G.R. No. 230018, 23 June 2021.

Considering the nature of the CA's finding, which has since attained finality, of lack of proof that she stole the items in the first place, Alterado's civil liability should be deemed non-existent.³⁸ It would be the height of injustice to hold her liable for the supposed value – amounting to an astounding Thirty-Six Million Three Hundred Twenty-Eight Thousand Fifty Pesos (₱36,328,050.00) – of the jewelry alleged stolen from RCC, in addition to exemplary damages in the amount of One Hundred Thousand Pesos (₱100,000.00), under the circumstances.

WHEREFORE, premises considered, the petition is **GRANTED**. The Decision dated 20 February 2019 and Resolution dated 14 October 2019 of the Seventh Division of the Court of Appeals in CA-G.R. SP No. 155347 are hereby **REVERSED** and **SET ASIDE**. The Omnibus Order dated 09 January 2018 and Order dated 15 February 2018 of Branch 133, Regional Trial Court, Makati City, in Criminal Case No. 13-841, are **REINSTATED**.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *off 13-841*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

125-I

SEP 23 2022

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³⁸ Supra note 32.