



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **July 25, 2022**, which reads as follows:*

“G.R. No. 259485(Jose Mejico Ocampo @ Jojo vs. People of the Philippines, Georgie Perez y Jualayba).— The Court resolves to **REQUIRE** counsel for petitioner to **PAY** to the Court the amount of **₱1,000.00** as payment for Sheriff’s Trust Fund pursuant to A.M. No. 17-12-09-SC (January 10, 2018).

This Petition for Review on *Certiorari*¹ rails against the *Decision*² dated 19 January 2021 and the *Resolution*³ dated 7 December 2021 of the Court of Appeals (CA) which affirmed the *Decision*⁴ of the Regional Trial Court (RTC) of Quezon City, Branch 224, finding petitioner Jose Mejico Ocampo (petitioner) civilly liable to private respondent Georgie Perez y Jualayba (Georgie) in Criminal Case No. R-QZN-15-01653-CR.

The Petition must be denied.

Incipiently, this Court notes petitioner’s failure to comply with the requirements in Section 5, Rule 45 of the Rules of Court.⁵ He failed to attach the proof of service of the Petition upon the CA, as well as pay the required legal fees in the amount of **₱1,000.00** representing the Sheriff’s Trust Fund.⁶

¹ *Rollo*, pp. 3-23.

² *Id.* at 24-31. Penned by Associate Justice Germano Francisco D. Legaspi with the concurrence of Associate Justices Franchito N. Diamante and Carlito B. Calpatura.

³ *Id.* at 33-34. Penned by Associate Justice Germano Francisco D. Legaspi with the concurrence of Associate Justices Fernanda Lampas Peralta and Carlito B. Calpatura.

⁴ *Id.* at 164-171. Penned by Presiding Judge Tita Marilyn Payoyo-Villordon (now Court of Appeals Associate Justice).

⁵ Section 5. Dismissal or denial of petition. – The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.

⁶ *Id.* at 1.

In any case, even if the Court turns a blind eye to the foregoing procedural flaws, petitioner still failed to show any reversible error committed by the CA in rendering the assailed 19 January 2021 *Decision* and the 7 December 2021 *Resolution*.

It is elementary that when a criminal action is instituted, the civil action for recovery of the civil liability arising from the offense charged is impliedly instituted with it.⁷ Thus, the institution of the charge carries with it the institution of the action for the recovery of the civil liability. In case of an acquittal, the extinction of the criminal action does not carry with it the extinction of the civil action unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil liability might arise did not exist.⁸

Here, petitioner was acquitted owing to the failure of the prosecution to establish his intent to gain as an element of Qualified Theft. Accordingly, he acted in good faith when he removed the items belonging to Georgie and brought them to his residence in Cavite. Nonetheless, petitioner failed to return the said items despite Georgie's demand.

Petitioner's disputation that he must be reimbursed of the expenses he incurred before he returns the items to Georgie does not hold water. The claim against Georgie is anchored upon the principle of *negotiorum gestio* or unjust enrichment, and not one arising from the offense charged. Simply put, petitioner's cause of action must be threshed out in a separate civil action. Veritably, 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.⁹

In a nutshell, the CA committed no reversible error in ordering the restitution or, if no longer feasible, reparation of the subject items against petitioner and in favor of Georgie.

WHEREFORE, the Petition for Review on *Certiorari* is hereby **DENIED**. The *Decision* dated 19 January 2021 and the *Resolution* dated 7 December 2021 of the Court of Appeals in CA-G.R. CV No. 108787 are **AFFIRMED**.

⁷ See SECTION 1, Rule 111 of the Rules of Court.

⁸ See SECTION 2, Rule 111 of the Rules of Court.

⁹ See SECTION 1(a), Rule 111 of the Rules of Court.

SO ORDERED.”

By authority of the Court:

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Division Clerk of Court JB 1/17/23

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 224, 1100 Quezon City
(Criminal Case No. R-QZN-15-01653-CR)

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