

ACQUITTAL AND CIVIL LIABILITY IN THE SAME CRIMINAL PROCEEDING

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If the accused is not found criminally responsible for a felony, may he be held civilly liable in the same criminal proceeding?

This question has been raised by recent decisions of Judge Guillermo Santos of the Court of First Instance of Manila, Branch II, who, in several criminal cases including murder, estafa, and homicide through reckless imprudence, acquitted each of the accused and at the same time imposed civil liability for the offense. In these cases, none of the defendants appealed; thus, the question has not reached the appellate courts for disposition.

The case of *People v. Molina*,¹ the first of these cases, involved a defendant charged with having driven an army jeep in a reckless, careless and imprudent manner, hitting and killing an 11 year-old boy, in the process.

The prosecution relied on the testimony of a witness to the incident who declared that she saw the child, as he crossed from the north side, hit by the army jeep driven by the accused; on the police investigation where the accused admitted that his jeep hit the victim; and on an offer allegedly made by the accused to compromise the case.

The defense, in rebuttal, introduced two witnesses, a passenger and a pedestrian, who were both at the scene of the accident. Both testified that the accused's jeep did not hit the victim; and that another jeep had in fact hit the victim, which jeep then continued on its way without stopping. Further, the defense showed that the jeep driven by the accused did not reveal any trace of contact with the victim.

The accused, for his own part, testified that his jeep did not hit the victim on that day; that instead, his jeep was crowded by another jeep on his right as a result of which, his jeep jumped into the center island and he fell therefrom; that the statement prepared by the police investigators was inaccurate and contained several errors, which was the reason why he did not sign the same; and last, that he was compelled to consider an amicable settlement be-

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¹ CFI (Manila), Criminal Case No. 56562, July 20, 1966; 31 Lawyers J. 10 357 (1966).

both instances the civil liability of the accused in the said decision of acquittal. In the first case he passed upon the civil liability in this manner:

"But what about the civil liability of the accused? The same being deemed included, and in fact, has been prosecuted through a private prosecutor, may the accused's civil liability be determined in this proceeding? In a previous case,³ we had occasion to hold as follows:

"All the foregoing induce a reasonable doubt as to the guilt of the herein accused, which compel us, on a time-honored principle, to enter a finding of "not guilty" notwithstanding that the offense — as the evidence of record by a clear preponderance show — was committed in this jurisdiction...

"The question arises as to whether under these sets of facts, the accused may be found civilly liable to the heirs of the deceased. We answer this in the affirmative. For although the general rule — a converse of the legal rule that a person criminally liable is also civilly responsible (Art. 100 Rev. Penal Code) — is that a person not criminally liable is not civilly responsible (*People v. Pantig*, 51 Off. Gaz. 5627), it is recognized and expressly now so provided, that a person, although not criminally liable, may be civilly responsible — (Art. 29, Civil Code).

"But may the civil liability be enforced in this action? Again, we answer in the affirmative, for the civil action, not having been reserved or waived, was deemed included in these proceedings. (Rule 107, now III Revised Rules of Court)."⁴

Before going into the intrinsic validity of the question, it is useful to consider cases previously decided by the Supreme Court holding that when a person is not found guilty, he may not be held civilly liable.

In *People v. Pantig*,⁵ the Court of First Instance of Manila acquitted the appellant of the crime of estafa but sentenced him nevertheless to pay the offended party the amount of ₱12,000, the amount alleged in the information to have been obtained through false and fraudulent representations from the offended party. The trial court found as a fact that the sum of ₱12,000 was received by the defendant-appellant as a loan. This finding was inconsistent with the existence of the criminal act of estafa. The liability of the defendant for the return of the amount so received arose from a civil contract, not from a criminal act and may not be enforced in the criminal case. In this case, therefore, the civil liability arising from the criminal act (*ex delicto*) did not exist because there was no crime committed. In effect, the court ruled that the acquit-

³ *People v. Liongson*, CFI (Manila), Criminal Case No. 32314, August 31, 1964.

⁴ *People v. Molina*, *Supra*.

⁵ 51 O.G. 5627 (Oct., 1955).

cause the case had been pending for a long time and being under technical arrest, his salary had been withheld.

The decision of the judge went thus:

"Ordinarily, evidence of the kind adduced by the prosecution — namely, that of an eyewitness, the accused's statement and the offer of compromise — are collectively legally sufficient to sustain conviction. In this particular case, however, the eyewitness account is belied by two eyewitnesses for the defense, who testified to a different version. Credibility of the prosecution's evidence has thus been diminished to the point where their legal sufficiency is seriously impaired. It has devolved upon the prosecution to adduce rebuttal evidence which it did not...

"On the principle, therefore, that the evidence adduced must establish accused's guilt beyond reasonable doubt, and corollary, that the same must admit of no hypothesis consistent with the accused's innocence, we find that the evidence is legally insufficient to support a finding of accused's criminal liability or guilt."

In another case, *People v. Manotoc-Laperal*,² the accused was charged with estafa for having failed, despite repeated demands by the complainant, to account for and deliver the proceeds of the sale of several pieces of jewelry, after receiving said jewelry on a commission basis, as evidenced by two receipts.

The defense contended that the delivery as evidenced by the 2 receipts presented by the prosecution were actually part of a much larger delivery, which the defendant was allowed to sell through sub-agents; and that some pieces of jewelry were delivered to a third person who had left for the United States. The accused further introduced, first, several receipts, showing that the complainant had received several sums in payment of pieces of jewelry, and second, an agreement to draw up a new list of jewelry not yet paid without destroying the old list, since the accused trusted the complainant. Judge Guillermo Santos ruled:

"This array of circumstantial evidence was never traversed by the complainant.

"The evidence of the defense thus pierced through the integrity of Exhibits "A" and "B" upon which the prosecution mainly relies and, unrebutted, gives credence to the defense's version. The integrity of the exhibits having been assailed and impaired, the prosecution's case must fall on the time-honored principle that it bears the burden to prove the guilt of the accused beyond peradventure of doubt."

In these two cases, the accused were acquitted on the ground of insufficiency of evidence to prove guilt of the accused beyond reasonable doubt. However, the judge proceeded to consider in

² CFI (Manila), Criminal Case No. 63401, Jan. 25, 1967.

tal of the crime charged also extinguished any civil liability because the fact out of which the crime of estafa might arise did not exist. And extending the deduction further if the liability of the defendant for the return of the amount so received arose from a civil contract of loan, and not from a criminal act, it may not be enforced in the criminal case;⁶ but if the civil liability of the defendant for the return of the amount arose from a criminal act, the same may be enforced in the criminal case. This is in fact provided for by the provisions of the Revised Penal Code.⁷

In *People v. Manago*,⁸ the defendant, by virtue of the preliminary proceedings for malversation of public funds instituted against him, was suspended from office on June 16, 1935. On July 30, 1937, judgment was rendered acquitting him of the charge. Thereupon, he filed a petition with the trial court praying that by reason of his acquittal in the criminal proceeding, a supplemental decision be entered ordering the payment of his salary during the period of his suspension from office, which petition was denied by the court. This decision was upheld by the Supreme Court. "In the criminal proceeding against the accused, the judgment that the law authorizes to be rendered is either one of acquittal or of conviction with indemnity and the accessory penalties provided for by law. The payment of salary of an employee during the period of his suspension cannot, as a general rule, be properly decreed by the trial court in a judgment of acquittal. It devolves upon the head of the department concerned and is discretionary with him (Sec. 260, Rev. Adm. Code)". This case therefore did not contemplate the civil liability of the accused arising from a criminal charge but rather an award of salary for the accused by reason of his acquittal, which award is within the province of an administrative body, and not of a judicial body, to decide.

The case of *Manila Railroad Co. v. Baltazar*⁹ also involved the payment of salary of the co-defendant during their suspension. Juan Aquino and Liwayway Joaquin, agents of MRR Intelligence Section were acquitted of the charge of qualified theft. Their motion filed in the same criminal case praying for the payment of their salaries during their suspension was granted by the lower court. The Supreme Court held:

"In a criminal case, the CFI may dismiss an information, try and acquit or convict and impose upon the defendant the penalty provided by law. The only civil responsibility that

⁶ *People v. Pantig*, *supra*.

⁷ Rev. Pen. Code, Art. 100. "Every person criminally liable for a felony is also civilly liable."

⁸ 69 Phil. 496 (1940).

⁹ 49 O.G. 3875 (Sept., 1953).

may be imposed by the court is that which arises from the criminal act. (Art. 100-III Revised Penal Code). The acquittal of the defendant does not mean necessarily that he is not civilly liable unless the verdict and judgment of acquittal is that he did not commit the crime charged. The owner of a stolen property in a case of qualified theft is a party in the case if he does not reverse his right to bring a separate civil action. In that event, the court will order the defendant criminally liable to return the property stolen, to repair the damage caused or done, if any, and to indemnify the offended party for consequential damages.

"But whether a defendant acquitted of a criminal charge is entitled to his salary during suspension is not within the power of the court to grant in a criminal case where the defendant is acquitted. Neither the Revised Penal Code nor the Rules of Court on criminal procedure vests in the court authority to grant such a relief. No issue was joined on whether the defendants were entitled to the payment of their salary during suspension and the issue joined by the plea of not guilty was whether the defendants committed the crime charged in the information."

It is interesting to note in this decision that the Supreme Court stated the case when the acquittal of the defendant precludes recovery of civil damages, and that is: when the verdict and judgment of acquittal is that the defendant did not commit the crime charged. Therefore, the fact of crime out of which civil liability due to delict might arise for the recovery of damages does not exist because the court totally absolved the defendant from any connection whatsoever with the crime charged. For instance, where the defendant is shown to be in another place at the time the deceased was shot, the court would then acquit the defendant, because he could not possibly have committed the crime of homicide. His acquittal carries with it absolution from any civil liability arising out of the crime.

*El Pueblo de Filipinas v. Abellera*¹⁰ presents a different case. Here, the defendant was acquitted from the crime of infidelity in the custody of public documents but at the same time was reprimanded for certain acts he did in his capacity as clerk of the Court of First Instance of Rizal. The Supreme Court held: "Habiendo sido el acusado absuelto del delito, que se le imputaba, de infidelidad en el custodio de documentos publicos, el Juscado no tenia autoridad para reprenderle, puesto que una represion en causa criminal, por leve que sea, no deja de ser un castigo, y cualquier castigo repugna y es esencialmente contrario a una absolucion."¹¹

¹⁰ 69 Phil. 623 (1940).

¹¹ "The accused, having been absolved of the crime, that is imputed to him, of infidelity in the custody of public documents, the Court did not have the authority to reprimand him, because a reprimand in a criminal case no matter how light, does not cease to be a penalty and any penalty is repugnant and is essentially contrary to an acquittal."

Having examined these cases, the intrinsic validity of decisions of the Court of First Instance of Manila acquitting the defendants but imposing civil liability in the same criminal proceeding may now be determined.

It is the established rule in this jurisdiction that every person criminally liable for a felony is also civilly liable.¹² Civil liability generally accompanies criminal liability, because every person liable criminally is also liable for reparation of damage and for indemnification for the harm done. This is further supplemented by the Civil Code of the Philippines: "Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for damages."¹³ In view of these principles, the rule on the institution of criminal and civil action provides: "When a criminal action is instituted, the civil action for recovery of civil liability arising from the offense charged is impliedly instituted with criminal action, unless the offended party expressly waives the civil action or reserves his right to institute it separately."¹⁴

Thus, the civil liability of the accused must be determined in the criminal action, unless the injured party expressly waives such liability or reserves his right to have the civil damages determined in a separate civil action.¹⁵ It is therefore the duty of the court, upon the conviction of the defendant in a criminal prosecution, to enter judgment with respect to the civil liability of the accused arising from the offense, if no reservation has been made to litigate it in a separate action.¹⁶

This raises another question: Since a person criminally liable is also civilly liable, does his acquittal in a criminal case mean extinction of his civil liability?

The Revised Penal Code which governs the civil liability arising from crimes (*ex delicto*)¹⁷ is silent on this point. Other provisions of law must therefore be taken into account. The Revised Rules of Court provides:

"The extinction of the penal action does not carry with it extinction of the civil, unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil might arise did not exist. In other cases, the person enti-

¹² Rev. Pen. Code, Art. 100.

¹³ Civil Code (1949), Art. 20.

¹⁴ Rev. Rules of Court, Rule III, Sec. 1 (formerly Rule 107, Sec. I par. (a)).

¹⁵ *Dionisio v. Alvendia*, G.R. No. 10567, Nov. 26, 1957; 55 O.G. 4633 (June, 1959); *People v. Celorico*, 67 Phil. 185 (1939); *Roa v. de la Cruz*, G.R. No. 13136, Feb. 13, 1960.

¹⁶ *People v. Ursua*, 60 Phil. 252 (1934).

¹⁷ Reyes, Revised Penal Code, 617 (6th Ed., 1965).

tled to the civil action may institute it in the jurisdiction and in the manner provided by law against the person who may be liable for restitution of the thing and reparation or indemnity for the damage suffered."¹⁸

In the cases mentioned previously, the acquittal of the defendant did not mean automatically exoneration from civil liability.

In fact, the cases made the circumstance clear when acquittal of the crime would result in acquittal also from damages: when the crime could not have been committed by the accused or the non-existence of the crime in the first place.

This provision means that the acquittal of the accused from the criminal charge would not necessarily extinguish the civil liability unless the court declared in the judgment that the fact from which the civil liability might arise did not exist.¹⁹ A judgment of acquittal in a criminal case which contains no declaration that the fact from which civil liability for the act complained of did not exist, but on the contrary, intimates that the responsibility is civil rather than criminal, is no obstacle to the civil proceeding.²⁰

When the Civil Code of the Philippines was drafted, the provisions of Rule 107 of the Rules of Court, (now Rule III, Sec. 3, Par. c) were repeated in a limited manner. This has added another element to the problem of civil liability.

"When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

"If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect it may be inferred from the text of the decision whether or not the acquittal is due to that ground."²¹

By virtue of this article, it was held that an acquittal on the ground that the guilt of the defendant has not been satisfactorily established is equivalent to an acquittal based on reasonable doubt and does not preclude a suit to enforce the civil liability for the

¹⁸ Rev. Rules of Court, Rule III, Sec. 3, par. (c).

¹⁹ *Tan v. Standard Vacuum Oil Co. et al.*, 91 Phil. 672 (1952).

²⁰ *De Guzman v. Alvira et al.*, 96 Phil. 558 (1955).

²¹ Civil Code, Art. 29.

²² *Phil. National Bank v. Catipon*, 98 Phil. 286 (1956). See also *Machinery and Engineering Supplies, Inc. v. Quintano*, 98 Phil. 892 (1956).

same act or omission under the article.²² In other words, his acquittal on reasonable doubt in the criminal action is not a bar to the institution of a civil action for damages.²³

It is therefore clear that acquittal in a criminal case does not mean extinction of the civil liability of the defendant in the following cases, and only in them:

1) When the court does not declare in the judgment that the fact from which the civil liability might arise does not exist.²⁴

2) When the acquittal is on the ground that his guilt has not been proven beyond reasonable doubt in which case, the civil action would require only a preponderance of evidence.²⁵

(There are, of course, other cases²⁶ where civil action for damages may lie in spite of acquittal in a previous criminal case, such as when the civil action to recover damages is based on the theory that the act is quasi-delictual (Art. 2177, New Civil Code) or is contractual (*ex contractu*). But this article is not concerned with those cases.)

The next question therefore must be asked: Is it within the jurisdiction of the court to declare in the same criminal proceeding the acquittal of the accused on the ground that his guilt has not been proved beyond reasonable doubt and at the same time to impose then and there civil liability upon him on the ground that the preponderance of evidence tends to show his civil obligations arising from the crime?

It is submitted that Judge Santos of the Court of First Instance of Manila, in answering this affirmatively, did not exceed his authority, or violate any provision of law or run counter to any accepted principles of law. On the other hand, his decisions in the several cases previously mentioned are in keeping with legislative intent, with the rules of construction and the general principles of justice and equity.

To this end, the cardinal rule of statutory construction is to seek the meaning and intention of the legislature first of all in the language of the statute itself, for it is presumed that the means employed by the legislature to express its will are adequate for the purpose and do express that will correctly.²⁷ It can be seen from the provisions of the Revised Rules of Court on this matter, that they give to the person entitled to the civil action the option

²² *Aquino v. Berzamira*, C.A.-G.R. No. 22681-R, August 31, 1961, 58 O.G. 3885 (May, 1962).

²⁴ Rev. Rules of Court, Rule III, Sec. 3 Par. (c).

²⁵ Civil Code (1949), Art. 29.

²⁶ Civil Code (1949), Arts. 30-35, 2176, 2177, 2196, 2235.

²⁷ *Id.* p. 87.

to institute the same. Thus, "the person entitled to the civil action may institute it in the jurisdiction and in the manner provided by law against the person who may be liable for the reinstatement of the thing and the reparation or indemnity for the damage suffered."²⁸ And again, "when the accused is acquitted on the ground that his guilt has not been proven beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted."²⁹ The use of "may" implies that the court is not bound to rule on the matter of civil liability only upon institution of a civil action after acquittal of the accused on reasonable doubt. That which is not prohibited expressly cannot be considered prohibited impliedly.

A determination of the character of the particular statute and provisions is helpful in considering whether the same is mandatory, directory and permissive. It is an accepted rule that statutes relating to pleading, practice and procedure in the courts, which includes the statute in question, are generally interpreted as merely directory, their purpose being to promote order and convenience, though those provisions which grant substantive rights to litigants are to be construed as mandatory.³⁰ The test therefore is whether or not the rule or provision³¹ confers upon the litigant, in this case the complainant, a substantial right the denial of which will injure him or will prejudice his case. In this case, by adjudging, in the complainant's favor, the civil liability of the accused acquitted on the mere ground that his guilt was not successfully proved by the prosecution beyond reasonable doubt, the right of the complainant is not prejudiced but rather safeguarded and preserved.

To determine whether the intention of the legislature in passing the provision on institution of civil action for recovery of damages, was to benefit the injured party rather than the accused, "the surrounding circumstances and the history of the times, the law as it stood before the enactment, the occasion and necessity for the new statute, the mischief or evil intended to be cured, and the remedy intended to be applied, as also the consequences of adjudging the statute to be applicable or not applicable to the case at bar"³² should be considered. In this regard, the statement of the Code Commission on the provision of Article 29 is enlightening:

"The old rule that the acquittal of the accused in a criminal case also releases him from civil liability is one of the most

²⁸ Rev. Rules of Court, Rule III, Sec. Par. (a).

²⁹ Civil Code (1949), Art. 29.

³⁰ Gonzaga, *supra*, p. 272.

³¹ Civil Code (1949), Art. 29.

³² Gonzaga, *supra*, p. 81.

serious flaws in the Philippine legal system. It has given rise to numberless instances of miscarriage of justice, where the acquittal was due to a reasonable doubt in the mind of the court as to the guilt of the accused. The reasoning followed is that inasmuch as the civil liability is subordinate to the criminal when the latter is not proven, civil liability cannot be demanded.

"This is one of those cases where confused thinking leads to unfortunate and deplorable consequences. Such reasoning fails to draw a clear line of demarcation between criminal liability and civil responsibility and to determine the logical result of the distinction. The two liabilities are separate and distinct from each other. One affects the social order and the other, private rights. One is for the punishment or correction of the offender while the other is for reparation of damages suffered by the aggrieved party. The two responsibilities are so different from each other that Art. 1813 of the present (Spanish) Civil Code reads thus: There may be a compromise upon the civil action rising from a crime but the public action for the imposition of the legal penalty shall not thereby be extinguished.

"It is just and proper that for the purposes of the imprisonment of or fine upon the accused, the offense should be proved beyond reasonable doubt. But for the purpose of indemnifying the complaining party, why should the offense also be proved beyond reasonable doubt? Is not the invasion or violation of every private right to be proved only by a preponderance of evidence? Is the right of the aggrieved person any less private because the wrongful act is also punishable by the criminally law?

"For these reasons, the Commission recommends the adoption of the reform under discussion. It will correct a serious defect in our law. It will close up an inexhaustible source of injustice, a cause for disillusion on the part of innumerable persons injured or wrong."³³

From the foregoing therefore, the decision of imposing civil liability upon the accused on the basis of the preponderance of evidence as to his probable guilt while acquitting him from criminal liability due to insufficiency of evidence to prove his guilt beyond reasonable doubt, gives effect to the manifest intent of the lawmaker and promotes the object for which the provision of Article 29 was included in the Civil Code of the Philippines.

Furthermore, such a decision of acquittal and imposition of civil liability, as stated by Judge Guillermo Santos in one of said cases,³⁴ "will not only avoid multiplicity of actions, but also prevent total miscarriage of justice — witnesses for the prosecution having passed away in the meantime." And in another case,³⁵ "it would have been easier had we just, after finding that the evidence did not

³³ Report of the Code Commission on the Proposed Civil Code of the Philippines, pp. 45-46.

³⁴ *People v. Liongson, supra.*

³⁵ *People v. Molina, supra.*

warrant the conviction of the accused beyond reasonable doubt, acquitted the herein accused. But this would have necessitated the filing by the family of the deceased of an independent civil Code. This procedure, however, would not only be cumbersome, expensive and dilatory, it may even result in failure of justice, since the witnesses may no longer be available."

One may consider the decision in the light of the equity of the law and still come to the same conclusion as to its propriety. Equity, as defined by Lord Coke, "is a construction made by the Judges that cases out of the letter of a statute yet being within the same mischief or cause of the making of the same shall be within the same remedy that the statute provideth and the reason thereof is, for that the lawmakers could not possibly set down all cases in express terms."⁸⁶ From this principle, our own Civil Code provided that "no Judge or court shall decline to render judgment by reason of the silence, obscurity or insufficiency of the laws"⁸⁷ And that "in case of doubt in the interpretation of laws, it presumed that the lawmaking body intended right and justice to prevail."⁸⁸ Going back to the decision, justice is rendered to the complainant whose charge against the accused could not, for a multitude of reasons, among them perhaps the ingenuity of the defense counsel, prove the latter's guilt beyond reasonable doubt, but whose charge can be established by mere preponderance of evidence also presented in the criminal proceeding. The accused for his part is not prejudiced because if he should believe that he should be absolved not only from the crime but also from any civil liability, since he is truly innocent of the crime, he can always appeal the judgment. As previously stated, the defendants in the two cases discussed above, for one reason or another, did not appeal the decision of Judge Guillermo Santos. We can only surmise that the decision must have been acceptable to them.

In addition, such a decision contributes to the prompt and economical determination of cases, thus complying with the spirit and general principle enunciated by the Supreme Court in the promulgation of the Revised Rules of Court:

"These rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding."

A note of caution however is necessary. In cases of similar nature, one must distinguish between an acquittal on the ground

⁸⁶ Gonzaga, *supra*, p. 85.

⁸⁷ Civil Code (1949), Art. 9.

⁸⁸ *Id.* at Art. 10.

that the accused was not author of the act complained of and an acquittal based merely on a reasonable doubt as to whether the accused committed the act or not. The second case leaves the way open for civil liability, under Article 29, but the first case closes the door to civil liability, for a person who has been found to be not the author of an act can never be held liable for such act. For the same reason, if the judgment in the criminal case declares definitely that the supposed act attributed to the accused did not exist, the finding, resulting in an acquittal, will bar a civil action for damages against the accused, or the imposition of civil liability in the same criminal proceeding which acquits the accused.³⁹

In resume therefore, unless the offended party expressly waives the civil action or reserves his right to institute it separately, the civil action for recovery of civil liability arising from the offense charged is impliedly instituted with the criminal action.

When the criminal action results in the acquittal of the accused, it may be due to either of these two reasons: first, that the supposed act which constituted the felony and which is attributed to the accused did not exist; and therefore, the fact out of which the civil liability might arise did not also exist, or second, that the guilt of the accused of the crime charged was not proven beyond reasonable doubt. In the latter case, it is within the discretion of the court, when the evidence presented during the criminal proceedings can support the contention of probable guilt of the accused by preponderance of evidence, to acquit the accused and at the time impose the civil damages proven in the criminal action to have been incurred by the injured party.

³⁹ Tolentino, *Commentaries and Jurisprudence of the Civil Code of the Philippines* (1960 Ed.) 118-120.