

CRIMINAL AND CIVIL LIABILITIES OF MINOR OFFENDERS

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I. INTRODUCTION

A. Purpose and Focus of the Study

The decade of the child signifies the universal movement towards the greater protection of the youth. The movement is very evident in the recent development of Philippine jurisprudence. The Philippine Constitution of 1973¹ provides that:

The State recognizes the vital role of the youth in nation building and shall promote their physical, intellectual and social well-being.

Our Labor Code devotes several provisions dealing mainly with protection of child labor. But the more significant development in child legislation is the passage and promulgation of Presidential Decree Number 603, better known as the Child and Youth Welfare Code.

Our study focuses on the criminal and civil liabilities of the sector of the youth we term minor offenders. Our purpose is to examine whether the promulgation of the Child and Youth Welfare Code brought in important changes on the substantive aspect of child legislation, more specifically on the criminal and civil liabilities of minors. The study seeks to find whether existing gaps in the law relating to minors have already been remedied.

B. Operationalization of Terms

The term minor offender is coined for our particular purpose. It refers to a minor accused of committing an intentional, fraudulent or negligent act. Said offender may therefore be proceeded against criminally under the Revised Penal Code or civilly for tort or quasi-delict under the Civil Code.

Minor offenders are those whose ages are below the age of majority. Article 402 of the Civil Code states that the age of major-

¹ CONST., art. II, sec. 5.

ity commences at the age of twenty one. The term minor offenders, therefore includes those whose age is below twenty one years and even those whose age is below one year.

The concept of minor offenders should be distinguished from the concept of youthful offender as provided for under the Child and Youth Welfare Code. The Code provides:²

A youthful offender is a child, minor or youth, including one who is emancipated in accordance with law who is over nine years but under eighteen years of age at the time of the commission of the offense.

A child nine years of age or under at the time of the commission of the offense shall be exempt from criminal liability. x x x

It is evident that the sector of minor offenders whose ages range from eighteen to twenty one years, is not covered by the Code. It is important to note that the original provision of Presidential Decree Number 603 defining youthful offender sets the age limit to twenty one years. Subsequent amendment by Presidential Decree No. 1179 lowered the limitation to eighteen years. A perusal of the amending decree reveals that the reason for such amendment is to clarify and strengthen the provisions of law to promote their effectiveness in dealing with juvenile delinquency.³

II. CRIMINAL LIABILITY OF MINOR OFFENDERS

A. *Minors Exempted from Criminal Liability*

There are several circumstances modifying or affecting criminal liability of offenders under our Revised Penal Code. The following persons are exempted from criminal liability: "A person under nine years of age".⁴ A similar provision is also contained in the Child and Youth Welfare Code which states: "A child nine years of age or under at the time of the commission of the offense shall be exempt from criminal liability and shall be committed to the care of his father or mother, or nearest relative or family friend in the discretion of the court and subject to its supervision."⁵

In the same article of the Revised Penal Code another exempting circumstance from criminal liability is also provided: "A person over nine years of age and under fifteen unless he has acted

² Child and Youth Welfare Code, as amended by Pres. Decree No. 1179 (1977), art. 189.

³ Pres. Decree No. 1179 (1977).

⁴ REV. PENAL CODE, art. 12.

⁵ Art. 189, Child and Youth Welfare Code, as amended by Pres. Decree No. 1179 (1977).

with discernment, in which case, such minor shall be proceeded against in accordance with the provisions of Article 80 of this Code. When such minor is adjudged to be criminally irresponsible, the court, in conformity with the provisions of this and the preceding paragraph, shall commit him to the care and custody of his family who shall be charged with his surveillance and education, otherwise, he shall be committed to the care of some institution or person mentioned in said Article 80.⁶ The Child and Youth Welfare Code also contain an analogous provisions when it states: "A child nine years of age or under at the time of the offense shall be exempt from criminal liability and shall be committed to the care of his or her father or mother or nearest relative or family friend in the discretion of the court and subject to its supervision. The same shall be done for a child over nine years and under fifteen years of age at the time of the commission of the offense, unless he acted with discernment in which case he shall be proceeded against in accordance with Article 192."⁷

a. *Cases Interpreting the Meaning of "Discernment"*

In a case decided by the Supreme Court⁸ "discernment in order to constitute an exemption from criminal liability of a minor under fifteen years of age but over nine, is his mental capacity to understand the difference between right and wrong, and such capacity may be known and should be determined by taking into consideration all the facts and circumstances afforded by the records of each case. The very appearance, the very attitude, the very comportment and behavior of said minor, not only before and during the commission of the act but also after and even during trial. In another case,⁹ the Supreme Court explained, citing Professor Padilla's Criminal Law, 1953 ed. "discernment is more than mere understanding between right and wrong. Rather it means the mental capacity of a minor between nine and fifteen years of age to fully appreciate the consequences of his unlawful act." The case of *People v. Alcabao*,¹⁰ also illustrates the concept of discernment: "The accused, here, an eleven-year-old boy, shot the offended party who caught him shooting at the latter's mango fruits. The accused further uttered the words "Putang ina mo, mabuti matikman mo." It was held that the first part of the remark clearly manifested the perverted character

⁶ REV. PENAL CODE, art. 12. par. 3.

⁷ Art. 189, Child and Youth Welfare Code.

⁸ *People v. Doqueña*, 68 Phil. 580 (1939).

⁹ *People v. Navarro*, CA-G.R. No 11846-R, February 5, 1955, 51 O.G. 4062 (Aug., 1955).

¹⁰ *People v. Alcabao*, C.A. G.R. No. 423-R, December 31, 1947, 44 O.G. 5006 (Dec., 1948).

of the accused and the second part reflected his satisfaction and elation upon the accomplishment of his criminal act.

In a case however,¹¹ the Supreme Court upheld the lower court by stating that the latter did not err in not taking evidence of discernment. In this case the accused was a 14-year-old child who pleaded guilty to the charge of homicide. Pursuant to Article 12, paragraph 3 of the Revised Penal Code, he was ordered confined at the Welfareville. Subsequently, however, accused filed a motion for new trial on the ground that the lower court erred in not taking evidence to determine whether or not he had acted with discernment. The court dismissed this assignment of error citing the case of *People v. Nieto*¹² where it was ruled that when a minor between nine and fifteen pleads guilty to an information alleging that the accused "with intent to kill, did then and there wilfully, criminally and feloniously attacked his victim," he may be convicted without the need of positive proof of his having acted with discernment. The above-quoted phrase signifies more than merely knowing the difference between right and wrong. It connotes that the accused killed with intention to kill and knowing to kill, knowing that it is a crime to kill not merely knowing it is wrong to kill.

b. *Exemption Under Special Laws*

In the case of *People v. Navarro*,¹³ a question was raised whether the exemption in Article 12(3) of the Revised Penal Code applies to a special law. Luisa Navarro was accused and found guilty of violating Executive Order No. 447 in connection with Section 12, Republic Act No. 508 or the Anti-Profiteering Law. The Supreme Court held: "We are not unaware of the fact that intent is immaterial in crimes *mala prohibita*. It is enough that the act prohibited was voluntarily committed. But the circumstances which exempt from criminal liability are based on lack of intelligence, intent and spontaneity. In the language in which Article 12, paragraph 3 was worded, the State has the burden of proving that the minor has acted with discernment, otherwise such minor shall be adjudged criminally irresponsible solely by reason of his age showing lack of intelligence. In view hereof, and considering the presumption that the legislature intended exceptions to its general language which would avoid injustice, oppression or absurdity,¹⁴ we are of the considered opinion that it could not have been the in-

¹¹ *People v. Surbida*, G.R. No. L-15865, October 30, 1961, 3 SCRA 337 (1961).

¹² 103 Phil. 1133 (1958).

¹³ *Supra*, note 9.

¹⁴ In re: Allen, 2 Phil. 630, 640 (1903).

tention of the law-making body to bar the application of the exempting circumstances provided for under Article 12, paragraph 3 of the Revised Penal Code in the proper in special penal statutes."

When the Revised Penal Code took effect in 1932, Sections 190 to 194 thereof replaced the existing laws on opium.¹⁵ The Dangerous Drugs Act of 1972 or Republic Act No. 6425 replaced the Revised Penal Code provisions and is at present the prevailing legislation.¹⁶ Section 30 of said law, Republic Act No. 6425 as amended by Presidential Decree No. 44 provides: "If a drug dependent voluntarily submit himself to confinement, treatment and rehabilitation in a center and complies with such conditions therefor as the Board may, by rules and regulations prescribe, he shall not be criminally liable for any violation of Section 8, Article II and Section 16, Article II of this Act.

The above exemption shall be extended to a minor who may be committed for treatment and rehabilitation in a center upon a sworn petition of his parent, guardian or relation within the fourth civil degree of consanguinity or affinity, or of the Director of Health or Secretary of the Department of Social Welfare in that order.

Should the drug dependent, having voluntarily submitted himself to confinement, treatment and rehabilitation in or having been committed to a center upon petition of the proper party, escape therefrom, he may resubmit himself for confinement or if he is not surrendered for recommitment, as the case may be, the Board may file a sworn petition for his recommitment. Upon proof of previous commitment or of his voluntary submission to confinement, treatment or rehabilitation, the court shall issue an order for recommitment. If subsequent to such recommitment, he should escape again, he shall no longer be exempt from criminal liability for use or possession of any dangerous drug."

B. Minority as a Mitigating Circumstance

Under the Revised Penal Code, minority is a mitigating circumstance to criminal liability, thus it is provided.¹⁷ "The following are mitigating circumstances: 2) That the offender is under eighteen years of age or over seventy years. In the case of a minor, he shall be proceeded against in accordance with the provisions of Article 80." However, Republic Act 47 amending Article 80 has reduced the age of those who can avail of suspension of service of

¹⁵ Act No. 3006, known as the Opium Law

¹⁶ Campos, *Drug Abuse and the Law*, 50 PHIL. L.J. 556-557 (1975).

¹⁷ REV. PENAL CODE, art. 13, par. 3.

sentence from eighteen years to sixteen years: Article 80, provides: "When a minor of either sex, under sixteen years of age at the date of commission of grave or less grave felony, is accused thereof x x x."

What is the effect of Republic Act No. 47 on Article 68? Article 68 provides: "When the offender is a minor under eighteen years and his case is one coming under the provisions of the paragraph next to the last of Article 80 of this Code, the following rules shall be observed: 1) Upon a person under fifteen but over nine years of age, who is not exempted from liability by reason of the court having declared that he acted with discernment, a discretionary penalty shall be imposed, but always lower for the crime which he committed: 2) Upon a person over fifteen and under eighteen years of age, the penalty next lower than that prescribed by law shall be imposed, but always in the proper period". The paragraph next to the last of Article 80 provides: "In case the minor fails to behave properly or to comply with the regulations of the institution to which he has been committed or with the conditions imposed upon him when he was committed to a responsible person, or in case he should be found incorrigible or his continued stay in such institution would be inadvisable, he shall be returned to court in order that the same may render the judgment corresponding to the crime committed by him".

The Supreme Court answered this query stating that the minor who is under eighteen is entitled to a privileged mitigating circumstance, but if he is sixteen or over his sentence will not be suspended. Thus in the case of *People v. Garcia*,¹⁸ the Court ruled: "There is no irreconcilable conflict between article 68 in relation to Article 12(3) and Article 80 as amended. There is no incompatibility between granting accused of the ages of fifteen to eighteen a privileged mitigating circumstance and fixing at sixteen the maximum age of persons who are to be placed in a reformatory institution. In other words, there is no inconsistency between sending defendants of certain ages to prison and giving them a penalty lower than that imposable on adults in similar circumstances. The privilege in Article 68 is not by its nature inherent in age but purely statutory and conventional, and that this privilege is granted adult offenders under certain conditions."

This apparent gap in the law regarding persons who may avail of the suspension of service of sentence was remedied by the

¹⁸ 85 Phil. 655 (1950).

Child and Youth Welfare Code¹⁹ which provides in part "The provisions of Article 80 of the Revised Penal Code shall be deemed modified by the provisions of the Chapter on Youthful Offenders." As it is defined by the latest amendment, "a youthful offender is a child, minor or youth including one who is emancipated in accordance with law who is over nine years but under eighteen years of age at the time of the commission of the offense."²⁰

III. *Criminal Responsibility of Parents*

The Revised Penal Code does not contain any provision regarding the liability of parents for the crimes committed by their children. However, Article 59 of the Child and Youth Welfare Code governs liability of parents who "(9) Causes or encourages the child to lead an immoral or dissolute life; (10) Permits the child to possess, handle or carry a deadly weapon, regardless of its ownership; (11) Allows or requires the child to drive without a license or with a license which the parent knows to be illegally procured. If the motor vehicle driven by the child belongs to the parent, it shall be presumed that he permitted or ordered the child to drive. The word "parents" include the guardian and the head of the institution or foster home which have custody over the child." These acts are punishable "with imprisonment from two to six months or a fine not exceeding ₱500.00 or both at the discretion of the Court, unless a higher penalty is provided for in the Revised Penal Code or special laws, without prejudice to actions for involuntary commitment of the child under Title VIII (Special Categories of Children) of the Child and Youth Welfare Code.

It is further provided²¹ that criminal liability shall be incurred by parents or guardians or any person in the commission of delinquent acts by their children or wards. The article states "a person whether the parent or guardian of the child or not, who knowingly or willfully: (1) Aids, causes, abets or connives with the commission by the child of a delinquency or; (2) Does any act, producing or promoting or contributing to the child's being or becoming a juvenile delinquent, shall be punished by a fine not exceeding ₱500.00 or both such fine and imprisonment at the discretion of the court."

Every person criminally liable for a felony is also civilly liable.²² Under the present state of law, the civil liability of a child, minor

¹⁹ Art. 189, Child and Youth Welfare Code.

²⁰ Child and Youth Welfare Code, as amended by Pres. Decree 1179 (1977), art. 189.

²¹ Art. 204, Child and Youth Welfare Code.

²² REV. PENAL CODE, art. 100.

or youth over nine years but under eighteen years of age at the time of the commission of the offense shall devolve upon the offender's father, and in case of his death or incapacity, upon the guardian. This civil liability may also be voluntarily assumed by a relative or family friend of a youthful offender.²³

This provision of the Child and Youth Welfare Code, in part, amends the provision of the Revised Penal Code²⁴ which states that the civil liability for acts committed by an imbecile or insane person, and by a person under nine years of age, or by one who acted with discernment shall devolve upon those having such person under their legal authority or control, unless it appears that there was no fault or negligence on their part.

The application of Article 101 of the Revised Penal Code became the issue of several cases. One case²⁵ explains that a father is made civilly liable under Article 101 of the Revised Penal Code for acts committed by his son only if the latter is an imbecile, an insane, under nine years of age, or over nine but under fifteen years of age who acts without discernment, unless it appears that there is no fault or negligence on his part. This is because a son who commits the act under any of these conditions is by law exempt from criminal liability.

But Article 101 of the Revised Penal Code is silent as to the subsidiary liability of parents if the offender is a minor over fifteen years who acted with discernment and therefore, not exempt from criminal liability. In the case of *Salen v. Balce*²⁶ the court ruled that in situations not covered by Article 101, the general law applies. The court points to Article 2180 of the Civil Code which provides:

x x x 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.

The Court explains the application of Article 2180 in the case of *Salen v. Balce*.²⁷

While we agree with the theory that, as a rule, the civil liability arising from a crime shall be governed by the provisions of the Revised Penal Code, we disagree with the contention that the subsidiary liability of persons for acts of those who are under their custody should likewise be governed by the same code even in the absence of any provision governing the case for that would leave the trans-

²³ Child and Youth Welfare Code, art. 201.

²⁴ REV. PENAL CODE, art. 101.

²⁵ *Salen v. Balce*, 107 Phil. 748 (1960).

²⁶ *Ibid.*

²⁷ *Ibid.*, at 750.

gression of certain rights without any punishment or sanction in the law.

The situation wherein the minor offender is above nine (9) years of age but below eighteen years is not covered by the factual situation of *Salen v. Balce*. The case of *Fuellas v. Cadano*²⁸ covers this particular situation.

It is argued in the case above cited that the only way by which a father can be made responsible for the criminal act of his son committed with deliberate intent and with discernment, is an action based on the provisions of the Revised Penal Code on subsidiary liability of the parents. In said case, the minor offender Fuellas, having been convicted of serious physical injuries at the age of fifteen, the provisions of paragraph 3 of Article 12 of the Revised Penal Code could have been applied, but having acted with discernment, Article 101 of the same code cannot include him.

The court in deciding the case of *Fuellas v. Cadano* invokes the case of *Salen v. Balce* and applies the provision of Article 2180 of the Civil Code.

The problems in the cases of *Salen v. Balce* and *Fuellas v. Cadano* is now remedied by the express provision of Article 201 of the Child and Youth Welfare Code. It is clearly provided that civil liabilities of minors over nine years and below eighteen years shall devolve upon the offender's father and in case of his death or incapacity, upon the guardian. There is no more qualification that the minor must not act with discernment in order that the parent may be held liable. However, the express provisions of Article 201 of the Child and Youth Welfare Code covers only minors eighteen years and below. The gap in the law as to the subsidiary liability of parents for acts committed by their minor children who are above eighteen but below twenty-one years still exist. We resort therefore to decided cases on the matter.

In the case of *Paleyan v. Bangkili*²⁹ the offender was nineteen years of age who pleaded guilty to the crime of homicide with less serious physical injuries. The court here held the mother of the offender solidarily liable with her son invoking again the provisions of Article 2180 of the Civil Code.

The mother here agreed that Article 2180 is applicable in the case, but submitted that its application should be relaxed, considering that her son, although living with her, was already nineteen

²⁸ 113 Phil. 341 (1961).

²⁹ G.R. No. L-22253, July 30, 1971, 40 SCRA 132 (1971).

years of age and hence mature enough to have a mind of his own. The response of the court is that the argument of the mother is not a legal defense, and does not exempt her from her responsibility as parent, and natural guardian. The court further said, Article 2180 does not provide for any exemption except proof that the defendant parent "observed all the diligence of a good father of a family to prevent damage." In this case, no such proof was presented.

What we can gather from the case of *Paleyan v. Bangkili* is that in cases where the minor offender is above eighteen but below twenty-one years, the parents can be made subsidiarily liable by invoking Article 2180 of the Civil Code. In the case of *Paleyan v. Bangkili*, the mother was held solidarily liable with her son.

Since the principles enunciated in the cases of *Salen v. Balce* and *Paleyan v. Bangkili* still holds for situations including minor offenders who are above eighteen but below twenty-one years, there is need to explain the nature of the liability of parents when the court invokes Article 2180 of the Civil Code.

In a case³⁰ where a father was made liable for injuries caused by his son to a former classmate when the former shot the latter with a pistol owned by his father, the court explains:

The decision was predicated upon the fact that Arreglado's father had acted negligently in allowing his son to have access to the pistol used to injure Benjamin. This was the logical consequence of the case, considering the act that the civil law liability under Article 2180 is not *respondet superior* but the relationship of *pater-familias* which bases the liability of the father ultimately on his own negligence and not on that of his minor son and that if any injury is caused by the fault or negligence of his minor son, the law presumes that there was negligence on the part of his father.

In the case of *Exconde v. Capuno*³¹ the court made the following explanation:

The civil liability which the law imposes upon the father and in case of his death or incapacity, the mother, for any damages that may be caused by the minor children who live with them is obvious. This is a necessary consequence of the parent authority they exercise over them which imposes upon the parents the duty of supporting them; keeping them in their company; educating them and instructing them in proportion to their means. While on the other hand it gives them the right to correct and punish them in moderation. The only way by which they can relieve themselves of this liability is if they prove that they exercised all the diligence of a good father of a family to prevent the damage.

³⁰ Araneta v. Arreglado, 104 Phil. 529 (1958).

³¹ 101 Phil. 843 (1957).

2. *When there is conviction and suspension of sentence*

The sector of minor offenders entitled to a suspension of sentence are the youthful offenders under the Child and Youth Welfare Code. The group includes minor offenders eighteen years and below. Under Article 192 of the same code if the court finds after hearing the evidence that the youthful offender has committed the acts charged against him, the court shall determine the impossible penalty including any civil liability chargeable against him. However, instead of pronouncing judgment of conviction, the court, upon application of the youthful offender if it finds, that the best interests of the public as well as that of the offender will be served thereby, may suspend all further proceedings.

There is now a problem whether during the period of suspension of sentence the aggrieved party can file a separate action to enforce the civil liability of the minor offender. When the provision of Article 192 of Presidential Decree No. 603 as amended states that the court "may suspend all further proceedings," does this include the civil action or does this proceeding refers only to proceedings in relation to his criminal liability?

In the case of *Manio v. Gaddi*³² the offender who was sixteen years of age pleaded guilty to the crime of homicide through reckless negligence. The promulgation of his sentence was suspended. The aggrieved party filed a separate action to enforce the civil liability which the court allowed and held the parents of Balanza, the minor offender, solidarily liable.

In the above case cited, there was a motion to dismiss said action on the ground that there was no reservation to institute a separate action.³³ But the court ruled in favor of the aggrieved party because of the peculiarity of the facts of the case. The criminal proceeding was conducted in a very short span of time such that the aggrieved party was not even given the chance to prove the damages they sustained. The court therefore allowed this civil action to give the party a chance to present evidence. There is doubt therefore whether the court would allow the filing of a separate civil action to enforce liability of the defendant even without reservation under a different set of facts from that of *Manio v. Gaddi*.

In a very recent case³⁴ the court intimated that even if in the criminal proceeding there is no reservation as to a separate civil action, the aggrieved party can still file a separate civil action but

³² G.R. No. L-30860, March 29, 1972, 44 SCRA 198 (1972).

³³ RULES OF COURT, Rule 111, sec. 1.

³⁴ *Elcano v. Hill*, G.R. No. L-24803, May 26, 1977, 77 SCRA 98 (1977).

based on the provisions of the Civil Code. It is important to note that in the case of *Elcano v. Hill* the minor, Reginald Hill was acquitted in the criminal proceeding. The principle therefore enunciated in the case cannot apply to a situation where there is conviction but because of the privilege under Presidential Decree No. 603, there is suspension of sentence.

In a case however of suspension of sentence and a subsequent dismissal of the criminal case the case in point is *Magtibay v. Tiangco*.³⁵ *The court here said:*

x x x The suspension of the sentence under Article 80 of the Revised Penal Code after appellant herein had pleaded guilty did not wipe out his guilt, but merely put off the imposition of the corresponding penalty, in order to give a delinquent minor a chance to be reformed. When therefore, after he had observed good conduct, the criminal case was dismissed this does not mean that he was exonerated from the crime charged, but simply that he would suffer no penalty nor did such dismissal of the criminal case obliterate his civil liability for damages.

Under the present state of the law it is expressly provided by Article 198 of the Child and Youth Welfare Code that:

The final release of the child pursuant to the provisions of this Chapter shall not obliterate his civil liability for damages. Such release shall be without prejudice to the right for writ of execution for the recovery of civil damages.

3. *When there is acquittal*

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.³⁶

In the case of *Elcano v. Hill*³⁷ a minor married and living with his father, was criminally prosecuted. He was acquitted on the ground that his act was not criminal because of lack of intent to kill, coupled with mistake. The defense presented by the father and the acquitted son is that the acquittal in the criminal proceeding extinguished the civil liability of the minor offender and therefore no civil action can subsequently be filed against the offender.

The court explains that³⁸:

x x x And considering that the preliminary chapter on human relations of the New Civil Code definitely establishes the separability

³⁵ 74 Phil. 576 (1944).

³⁶ Civil Code, Article 29.

³⁷ *Supra*, note 34.

³⁸ *Supra*, note 34 at 106.

and independence of liability in a civil action for acts criminal in character (under Article 29 to 32 of the Civil Code) from the civil responsibility arising from crime fixed by Article 100 of the Revised Penal Code and in a sense the Rules of Court under Sections 2 and 3, Rule 111, contemplate also the same separability x x x that Article 2176 where it refers to fault or negligence, covers not only acts not punishable by law but also acts criminal in character, whether intentional and voluntary or negligent. Consequently, a separate civil action lies against the offender in a criminal act, whether or not he is criminally prosecuted and found guilty or acquitted, provided that the offended party is not allowed if he is actually charged also criminally, to recover damages on both scores x x x. In other words, the extinction of civil liability referred to in paragraph (e) of Section 3, Rule 111, refers exclusively to civil liability founded on Article 100 of the Revised Penal Code, whereas the civil liability for the same act considered as a quasi-delict only and not a crime is *not* extinguished even by a declaration in the criminal case that the criminal act charged has NOT happened or has not been committed by the accused. x x x (Underscoring ours)

It results, therefore, that the acquittal of Reginald Hill in the criminal case has not extinguished his liability for quasi-delict. Hence, that acquittal is not a bar to the instant action against him.

In this case Reginald's father was made subsidiarily liable although the liability of parents under Article 2180 of the Civil Code is joint and solidary. The court considers the fact that Reginald although a minor, is already emancipated by marriage but still living with his father. As a matter of equity, the court held Reginald's father only subsidiarily liable.

IV. CONCLUSION

We summarize the discussion by presenting the different age brackets of minor offenders and pointing to the provisions of law governing their civil liability arising from crime.

Minor offenders below nine years of age are exempt from criminal liability but not from civil liability.³⁹ The law that governs their civil liability is Article 101 of the Revised Penal Code, more specifically paragraph 2. Minor offenders who are above nine years but below eighteen years shall be governed by Article 201 of the Child and Youth Welfare Code. Whereas minor offenders who are above eighteen years but below twenty-one years shall be governed by Article 100 of the Revised Penal Code and by the provisions of general law more specifically Article 2180 of the Civil Code.⁴⁰

³⁹ *Salen v. Balce*, *supra*, note 25.

⁴⁰ *Salen v. Balce*, *supra*, note 25; *Fuellas v. Cadano*, *supra*, note 28. *Paleyan v. Bangkili*, *supra*, note 29; *Elcano v. Hill*, *supra*, note 34.

V. CIVIL LIABILITIES OF MINOR OFFENDERS ARISING FROM TORT

Under the Child and Youth Welfare Code parents and guardians are responsible for the damage caused by the child under their parental authority in accordance with the Civil Code.⁴¹ The law is clear that children referred to by the law are minor children for they are under their parental authority. But such liability of parents are subject to the provisions of the Civil Code. One provision is Article 2180 which states that the father and, in case of his death or incapacity, the mother, are responsible for the damages caused by their minor children who live in their company. But if the minor or insane person causing damage has no parents or guardian, the minor or insane person shall be answerable with his own property in an action against him where a guardian ad litem shall be appointed.

The parent may not be held liable under Article 2180 if he exercised the due diligence of a good father of a family.

What is this degree of diligence? The court in one case⁴² answers:

x x x Obviously there can be no meticulously calibrated measure applicable; and when the law simply refers to all the diligence of a good father of the family to prevent damage, it implies a consideration of the attendant circumstances in every individual case, to determine whether or not by the exercise of such diligence the damage could have been prevented.

The provision of law with regard civil liability of minors arising from tort is Article 2176 of the Civil Code.⁴³ Their civil liability however is solidary with their parents or guardians as provided for under Article 58 of the Child and Youth Welfare Code and they are under their parental authority. But such liability of parents are subject to the provisions of the Civil Code. One provision is Under Article 2180 of the Civil Code.

⁴¹Child and Youth Welfare Code, art. 58.

⁴²Cuadra v. Monfort, G.R. No. L-2401, September 30, 1970, 35 SCRA 169 (1970).

⁴³Art. 2176 provides: "Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done x x x."