

## SECOND DIVISION

[ G.R. No. 119771, April 24, 1998 ]

**SAN ILDEFONSO LINES, INC., AND EDUARDO JAVIER,  
PETITIONERS, VS. COURT OF APPEALS (THIRTEENTH DIVISION)  
AND PIONEER INSURANCE AND SURETY CORPORATION,  
RESPONDENTS.**

### DECISION

**MARTINEZ, J.:**

At around 3:30 in the afternoon of June 24, 1991, a Toyota Lite Ace Van being driven by its owner Annie U. Jao and a passenger bus of herein petitioner San Ildefonso Lines, Inc. (hereafter, SILI) figured in a vehicular mishap at the intersection of Julia Vargas Avenue and Rodriguez Lanuza Avenue in Pasig, Metro Manila, totally wrecking the Toyota van and injuring Ms. Jao and her two (2) passengers in the process.

A criminal case was thereafter filed with the Regional Trial Court of Pasig on September 18, 1991 charging the driver of the bus, herein petitioner Eduardo Javier, with reckless imprudence resulting in damage to property with multiple physical injuries.

About four (4) months later, or on January 13, 1992, herein private respondent Pioneer Insurance and Surety Corporation (PISC), as insurer of the van and subrogee, filed a case for damages against petitioner SILI with the Regional Trial Court of Manila, seeking to recover the sums it paid the assured under a motor vehicle insurance policy as well as other damages, totaling ₱564,500.00 (₱454,000.00 as actual/compensatory damages; ₱50,000.00 as exemplary damages; ₱50,000.00 as attorney's fees; ₱10,000.00 as litigation expenses; and ₱500.00 as appearance fees.)<sup>[1]</sup>

With the issues having been joined upon the filing of the petitioners' answer to the complaint for damages and after submission by the parties of their respective pre-trial briefs, petitioners filed on September 18, 1992 a Manifestation and Motion to Suspend Civil Proceedings grounded on the pendency of the criminal case against petitioner Javier in the Pasig RTC and the failure of respondent PISC to make a reservation to file a separate damage suit in said criminal action. This was denied by the Manila Regional Trial Court in its Order dated July 21, 1993,<sup>[2]</sup> ruling thus:

"Answering the first question thus posed, the court holds that plaintiff may legally institute the present civil action even in the absence of a reservation in the criminal action. This is so because it falls among the very exceptions to the rule cited by the movant.

"It is true that the general rule is that once a criminal action has been instituted, then civil action based thereon is deemed instituted together

with the criminal action, such that if the offended party did not reserve the filing of the civil action when the criminal action was filed, then such filing of the civil action is therefore barred; on the other hand, if there was such reservation, still the civil action cannot be instituted until final judgment has been rendered in the criminal action;

"But, this rule (Section 2, Rule 111, Revised Rules of Court) is subject to exemptions, the same being those provided for in Section 3 of the same rule which states:

'Section 3. When civil action may proceed independently. - In the cases provided for in Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines, the independent civil action which was been reserved may be brought by the offended party, shall proceed independently of the criminal action, and shall require only a preponderance of evidence.'

"Besides, the requirement in Section 2 of Rule 111 of the former Rules on Criminal Procedure that there be a reservation in the criminal case of the right to institute an independent civil action has been declared as not in accordance with law. It is regarded as an unauthorized amendment to our substantive law, i.e., the Civil Code which does not require such reservation. In fact, the reservation of the right to file an independent civil action has been deleted from Section 2, Rule 111 of the 1985 Rules on Criminal Procedure, in consonance with the decisions of this Court declaring such requirement of a reservation as ineffective. (Bonite vs. Zosa, 162 SCRA 180)

"Further, the Court rules that a subrogee-plaintiff may institute and prosecute the civil action, it being allowed by Article 2207 of the Civil Code."

After their motion for reconsideration of said July 21, 1993 Order was denied, petitioners elevated the matter to this Court *via* petition for *certiorari* which was, however, referred to public respondent Court of Appeals for disposition. On February 24, 1995, a decision adverse to petitioners once again was rendered by respondent court, upholding the assailed Manila Regional Trial Court Order in this wise:

"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 the tortfeasor is actually charged also criminally), to recover damages on both scores, and would be entitled in such eventuality only to the bigger award of the two, assuming the awards made in the two cases vary.

"To subordinate the civil action contemplated in the said articles to the result of the criminal prosecution - whether it be conviction or acquittal - would render meaningless the independent character of the civil action and the clear injunction in Art. 31, that this action may proceed independently of the criminal proceedings and regardless of the result of the latter.

"In *Yakult Phil. vs. CA*, the Supreme Court said:

'Even if there was no reservation in the criminal case and that the civil action was not filed before the filing of the criminal action but before the prosecution presented

evidence in the criminal action, and the judge handling the criminal case was informed thereof, then the actual filing of the civil action is even far better than a compliance with the requirement of an express reservation that should be made by the offended party before the prosecution presented its evidence.'

"The purpose of this rule requiring reservation is to prevent the offended party from recovering damages twice for the same act or omission.

"Substantial compliance with the reservation requirement may, therefore, be made by making a manifestation in the criminal case that the private respondent has instituted a separate and independent civil action for damages.

"Oft-repeated is the dictum that courts should not place undue importance on technicalities when by so doing, substantial justice is sacrificed. While the rules of procedure require adherence, it must be remembered that said rules of procedure are intended to promote, not defeat, substantial justice, and therefore, they should not be applied in a very rigid and technical sense."

Hence, this petition for review after a motion for reconsideration of said respondent court judgment was denied.

The two (2) crucial issues to be resolved, as posited by petitioners, are:

1) If a criminal case was filed, can an independent civil action based on quasi-delict under Article 2176 of the Civil Code be filed if no reservation was made in the said criminal case?

2) Can a subrogee of an offended party maintain an independent civil action during the pendency of a criminal action when no reservation of the right to file an independent civil action was made in the criminal action and despite the fact that the private complainant is actively participating through a private prosecutor in the aforementioned criminal case?

We rule for petitioners.

On the chief issue of "reservation", at the fore is Section 3, Rule 111 of the Rules of Court which reads:

"Sec. 3. When civil action may proceed independently. -- In the cases provided for in Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines, the independent civil action which has been reserved may be brought by the offended party, shall proceed independently of the criminal action, and shall require only a preponderance of evidence."

There is no dispute that these so-called "independent civil actions" based on the aforementioned Civil Code articles are the exceptions to the primacy of the criminal action over the civil action as set forth in Section 2 of Rule 111.<sup>[3]</sup> However, it is easily deducible from the present wording of Section 3 as brought about by the 1988 amendments to the Rules on Criminal Procedure -- particularly the phrase "... *which has been reserved*" -- that the "independent" character of these civil actions does not do away with the reservation requirement. In other words, prior reservation is a condition *sine qua non* before any of these independent civil actions can be instituted and thereafter have a continuous determination apart from or