

more the third person, in contracting with the agent, has relied exclusively upon his business standing and financial ability.

But if in our problem A's contract with T involves things belonging to P, P may sue and be sued by T directly on the contract despite the absence of formal representation by A. This exception is on the theory that P is the real party in interest (the obligations under the contract falling on him, he should have the rights as well), or otherwise to prevent prejudice or fraud against third persons.

Despite the exception provided in Art. 1883, the Supreme Court has intimated that the application of the exception depends upon the good or bad faith of the purchaser.

In this jurisdiction the third person can sue both the principal and the agent in those cases where direct suit by the third person against the principal is allowed. (Cecilio L. Pe, *Undisclosed Agency in the Philippines: A Comparative evaluation*, 8 U.S.T. Law Rev. No. 4, at 351-359 (1958). P2.00 at U.S.T. España, Manila. This issue also contains: Molina, *On Freedom of Philippine Mail During the Spanish Regime.*)

## LEGISLATION

LABOR LAW: When Congress passed Republic Act 1052, the nation's policy-making body laid down the rule regarding the termination of employment without a fixed term. In line with the principle embodied in said law and following the established traditions of the country the authors<sup>1</sup> of Senate Bill 278 in their explanatory note felt that, despite its laudable economic and social objectives, it was inadequate to cope with existing conditions where employment opportunities are scarce and trade unionism is still in the development stage.

For this reason, our lawmaking body enacted into law Republic Act 1787 designed to remedy the failure of Republic Act 1052 to define and provide the causes under which an employer may dismiss an employee<sup>2</sup> to prevent the latter from being placed in an unpredictable and very difficult situation.<sup>3</sup>

Introduced in 1955 when Congress turned out several measures aimed at the improvement of the social conditions of the Philippines,<sup>4</sup> Republic Act 1787 was passed on third reading by the Senate in the same year<sup>5</sup> but would have died a natural death had the President not certified to its urgency.<sup>6</sup> It was passed without amendment by the House on May 23, 1957,<sup>7</sup> the last day of the regular session of the Third Congress.

While the old law permitted the termination of employment by either the employer or employee with or without just cause provided one month advance notice was given, the amendatory law allows the severance of employment at any time for a just cause and provides for different periods when written notice is to be given by the employer and employee if the termination is without just cause. What are just causes are defined and enumerated by the law. It also seeks to distinguish termination of employment from suspension of employment.<sup>8</sup>

The law definitely is sound. There can be no mistake as to the intention of Congress to pronounce a clear-cut and equitable policy<sup>9</sup> to govern the separation from the service of minor employees. It has put more teeth

<sup>1</sup> Senators Primicias, Montano and Magalona.

<sup>2</sup> 2 SENATE CONGRESSIONAL RECORD, 1170 (1955).

<sup>3</sup> EXPLANATORY NOTE, Senate Bill 278.

<sup>4</sup> 5 Ateneo L. J. 76.

<sup>5</sup> HISTORY OF BILLS AND RESOLUTIONS, HOUSE OF REPRESENTATIVES, 606 (1957).

<sup>6</sup> It was certified on May 3, 1957, *ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> EXPLANATORY NOTE, Senate Bill 278.

<sup>9</sup> 2 SENATE CONGRESSIONAL RECORD 1170 (1955).

to the law as a measure to put a stop to the practice of management of using the law as a means to indiscriminately terminate employment without a fixed term even for no reason at all.<sup>10</sup>

[R.A. NO. 1787]  
AN ACT

TO AMEND SECTIONS ONE AND TWO OF REPUBLIC ACT NUMBERED TEN HUNDRED AND FIFTY-TWO. (Re termination pay.)

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Section one of Republic Act Numbered Ten hundred and fifty-two is hereby amended to read as follows:

"SECTION 1. In cases of employment, without a definite period, in a commercial, industrial, or agricultural establishment or enterprise, the employer or the employee may terminate at any time the employment with just cause; or without just cause in the case of an employee by serving written notice on the employer at least one month in advance, or in the case of an employer, by serving such notice to the employee at least one month in advance or one-half month for every year of service of the employee, whichever is longer, a fraction of at least six months being considered as one whole year.

"The employer, upon whom no such notice was served in case of termination of employment without just cause may hold the employee liable for damages.

"The employee, upon whom no such notice was served in case of termination of employment without just cause shall be entitled to compensation from the date of termination of his employment in an amount equivalent to his salaries or wages corresponding to the required period of notice.

"The following are just causes for terminating an employment without a definite period:

"1. By the employer—

"a. The closing or cessation of operation of the establishment or enterprise, unless the closing is for the purpose of defeating the intention of this law;

"b. Serious misconduct or wilful disobedience by the employee of the orders of his employer or representative in connection with his work.

"c. Gross and habitual neglect by the employee of his duties;

"d. Fraud or wilful breach by the employee of the trust reposed in him by his employer or representative;

"e. Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family, or representative; and

"f. Other causes analogous to any of the foregoing.

"2. By the employee—

"a. Serious insult by the employer or his representative on the

<sup>10</sup> *Ibid.*

honor or person of the employee;

"b. Inhuman and unbearable treatment accorded by the employer or his representative of the employee;

"c. Commission of a crime or offense by the employer or his representative against the person of the employee or any of the immediate members of his family; and

"d. Other causes analogous to any of the foregoing."

SEC. 2. Section two of Republic Act Numbered Ten hundred and fifty-two is amended to read as follows:

"SEC. 2. Unless terminated in the manner and for any of the causes enumerated in section one of this Act, the suspension, for a period not exceeding six months, of the operation of a business or enterprise not attributable to the fault of the employer, or the fulfillment by the employee of a military or civic obligation or privilege prescribed by law shall not terminate an employment.

It shall be the duty of an employer to return to his former job an employee who leaves his employment, to fulfill a military or civic obligation: **Provided**, That the employee indicates his desire to return to his former job within a reasonable time not to exceed sixty days from his relief from such civic or military obligation. Failure of the employer to comply with its duty shall render the employer liable for damages.

"Any contract or agreement contrary to the provisions of section one of this Act shall be null and void: **Provided, however**, That nothing herein contained shall prevent an employer and his employees or their representatives to enter into a collective bargaining agreement with terms more liberal than those provided for in this Act in favor of the employees."

SEC. 3. This Act shall take effect upon its approval.

Approved, June 21, 1957.

CRIMINAL LAW — Article 365 of the Revised Penal Code punishes any person who commits an act thru reckless imprudence which, had it been intentional would constitute a grave or less grave felony. It does not punish the same act if it constitutes a light felony. The said article, however, punishes an act committed thru simple imprudence regardless of whether it constitutes a grave, less grave or light felony. The inconsistency in the law is therefore very clear.

Thus in the case of *People vs. Macario Ande y Meriño*,<sup>1</sup> the Court of Appeals, when confronted with this question, said:

"Strange enough, the law does not declare as a crime, and does not provide any penalty for, the execution of an act—more serious as it is committed thru reckless imprudence which is intentional, also amounts to a light felony."

<sup>1</sup> C.A. G.R. 12221-R, promulgated April 19, 1955.

"The court is thus confronted with a situation whereby appellant's reckless imprudence resulting in slight physical injuries to Ricamara cannot be considered as a felony. This is so, because slight physical injuries—by itself a light felony—when committed thru reckless imprudence, is not punishable by law. In other words, here is a situation where appellant's act should normally be, but is not a crime."

Impelled by a desire to correct a gap in the law where persons who morally are criminals go scot free, Congress enacted Republic Act 1790.

The alarming rate of road accidents, which today is almost a daily occurrence,<sup>2</sup> where excessive speed proved time and again to be the culprit prompted our lawmakers to increase the penalties imposed as punishment for the different felonies therein covered.<sup>3</sup> It was believed that with this amendment and the corresponding increase in the penalties, a reasonable deterrent<sup>4</sup> to reckless driving shall have been made.

Prior to the Ande case courts were at a quandary as to what penalty to impose on light felonies committed thru reckless imprudence.<sup>5</sup> Some imposed the penalty provided by law on felonies committed thru simple negligence, others acquitted the accused applying Article 3 of the Revised Penal Code.<sup>6</sup> The situation became more confused when on a writ of prohibition applied for in the Court of Appeals after the promulgation of the Ande Case, the said Court held that its decision in the above case was merely persuasive until upheld by the Supreme Court and allowed the lower court to impose a penalty, that for a light felony committed thru simple negligence, on a light felony committed thru reckless imprudence.<sup>7</sup> No case of this sort has been brought before the Supreme Court.<sup>8</sup>

The Code Committee in drafting the Revised Penal Code did not omit the imposition of a penalty for a light felony committed thru reckless imprudence as many believed because of oversight.<sup>9</sup> It was the intention of that Committee to eliminate misdemeanors, as the act in question was known then, altogether.<sup>10</sup>

But the Code Committee could not foresee the confusion and controversy that such an omission would arouse,<sup>11</sup> which rendered imperative and necessary the amendment to the law. The Congress acted well in passing the above law for there can be no higher motive than the public good. Reckless driving, which is responsible for the loss of countless lives should not remain unpunished.

<sup>2</sup> EXPLANATORY NOTE, SENATE BILL 582.

<sup>3</sup> 3 SENATE CONGRESSIONAL RECORD, 409 (1956).

<sup>4</sup> *Ibid.*

<sup>5</sup> *Id.* at 10 and 11.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Id.* at 13.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

[R.A. NO. 1790]

AN ACT

TO AMEND ARTICLE THREE HUNDRED AND SIXTY-FIVE OF THE REVISED PENAL CODE. (Re penalty for reckless imprudence.)

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. Article three hundred and sixty-five of the Revised Penal Code is hereby amended, to read as follows:

"ART. 365. **Imprudence and negligence.**—Any person who, by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, shall suffer the penalty of *arresto mayor* in its maximum period to *prision correccional* in its medium period; if it would have constituted a less grave felony, the penalty of *arresto mayor* in its minimum and medium periods shall be imposed; if it would have constituted a light felony, the penalty of *arresto menor* in its maximum period shall be imposed.

"Any person who, by simple imprudence or negligence, shall commit an act which would otherwise constitute a grave felony, shall suffer the penalty of *arresto mayor* in its medium and maximum periods; if it would have constituted a less serious felony, the penalty of *arresto mayor* in its minimum period shall be imposed.

"When the execution of the act covered by this article shall have only resulted in damage to the property of another, the offender shall be punished by a fine ranging from an amount equal to the value of said damages to three times such value, but which shall in no case be less than twenty-five pesos.

"A fine not exceeding two-hundred pesos and censure shall be imposed upon any person, who by simple imprudence or negligence, shall cause some wrong which, if done maliciously, would have constituted a light felony.

"In the imposition of these penalties, the courts shall exercise their sound discretion, without regard to the rules prescribed in Article sixty-four.

"The provisions contained in this article shall not be applicable:

"1. When the penalty provided for the offense is equal to or lower than those provided in the first two paragraphs of this article, in which case the courts shall impose the penalty next lower in degree than that which should be imposed in the period which they may deem proper to apply.

"2. When, by imprudence or negligence and with violation of the Automobile Law, the death of a person shall be caused, in which case the defendant shall be punished by *prisión correccional* in its medium and maximum periods.

"Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place.

"Simple imprudence consists in the lack of precaution displayed in those cases in which the damage impending to be caused is not immediate nor the danger clearly manifest.

"The penalty next higher in degree to those provided for in this article

shall be imposed upon the offender who fails to lend on the spot to the injured parties such help as may be in his hands to give."

SEC. 2. This Act shall take effect upon its approval.

Approved, June 21, 1957.

TAXATION — International civic organizations, religious and charitable institutions because of the lofty ideals to which they are dedicated, have earned society's gratitude and confidence. Recognizing this, Republic Act 1916 exempts these entities from payment of all taxes and duties on all donations in any form and importations of articles. The enactment of the law, Congress believed, would be in line with the rural development program of the administration considering that importations or donations of this kind redound to the benefit of the common people.<sup>1</sup>

Before the passage of the exempting law, numerous requests were received by the Office of the President or by the Department of Finance for exemption from taxes and duties on goods consigned to the above organizations donated to or imported by them for their exclusive use or intended for distribution to indigent persons.<sup>2</sup> These requests were invariably, as a matter of policy, denied.<sup>3</sup> The said law is the answer to a long felt need for such legal authority to grant the requests of those deserving organizations.

The immediate reason for the approval of Republic Act 1916 was however, the imminent probability that a considerable consignment of food-stuffs to the Catholic Welfare Organization would be channeled to foreign countries unless a law exempting these articles from taxes and duties could be enacted in due time.<sup>4</sup> It was no secret that at the time several world wide institutions for charity were reluctant to ship relief goods to the Philippines because of the import duties which would be imposed on such goods.<sup>5</sup>

Twin bills<sup>6</sup> of the same nature were introduced in the Senate and House of Representatives. Our lawmakers in approving the said bills in record time clearly made known their intention of encouraging these organizations in their humanitarian work and of giving an incentive to foreign aid associations to increase their budgetary program for charity in the Philippines.

Republic Act 1916 is undoubtedly a worthy piece of legislation. It is another manifestation that our legislature is aware of the conditions obtaining in the country. It is certainly evident that Congress is not hesitant to enact vital legislation when so warranted by urgent circumstances.

<sup>1</sup> EXPLANATORY NOTE, HOUSE BILL 5914.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> 4 CONGRESSIONAL RECORD, HOUSE OF REPRESENTATIVES, 742 (1957).

<sup>5</sup> 4 SENATE CONGRESSIONAL RECORD, 630 (1957).

<sup>6</sup> SENATE BILL 483 and HOUSE BILL 5914.

The law, while laudable in its purpose and objectives, has suffered from its too stringent conditions and provisions. Those who have taken part in its operation and execution criticize it in that in view of its emphatic provisions against barter or sale of the goods exempted under this act, the law has rendered useless donated goods which are unsuitable for distribution to the poor or to Philippine conditions.

From the above observations, Congress can pick up the cue and amend the law accordingly in order to make more practical its noble aims and ends.

[R.A. NO. 1916]  
AN ACT

EXEMPTING FROM THE PAYMENT OF ALL TAXES AND DUTIES ALL DONATIONS IN ANY FORM AND IMPORTATIONS OF ARTICLES WHICH ARE DONATIONS TO INTERNATIONAL CIVIC ORGANIZATIONS, RELIGIOUS OR CHARITABLE INSTITUTIONS AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:*

SECTION 1. The provisions of existing laws to the contrary notwithstanding, all donations in any form and all articles imported into the Philippines, consigned to a duly incorporated or established international civic organization, religious or charitable society or institution for civic, religious or charitable purposes shall be exempt from the payment of all taxes and duties upon proof satisfactory to the Commissioner of Customs and/or Collector of Internal Revenue that such donations in any form and articles so imported are donations for its use or for free distribution and not for barter, sale or hire: **Provided, however,** That in case such articles are subsequently conveyed or transferred to other parties for a consideration, taxes and duties shall be collected thereon at double the rate provided under existing laws payable by the transferor: **Provided, further,** That rules and regulations shall be promulgated by the Department of Finance for the implementation of this Act.

SEC. 2. This Act shall take effect upon its approval.

Approved, June 22, 1957.