

[CV No. 76131, July 28, 2010]

**SPS. VIRGILIO AND JULIANA AQUINO, PLAINTIFFS-APPELLEES,
VS. TITA VLLLANUEVA, DEFENDANT-APPELLANT.**

Court of Appeals

Before us is an appeal^[1] under Rule 41 of the 1997 Revised Rules of Civil Procedure from the Decision^[2] dated June 10, 2002 of the Regional trial Court(RTC) of Baguio City, Branch 61, granting the complaint for damages in Civil Case No. 4059-R.

The Facts:^[3]

The claim for damages was precipitated by a vehicular accident involving a Nissan Vanette^[4] owned by herein Plaintiffs-Appellees Virgilio Aquino^[5] (Virgilio) and Juliana Aquino (collectively, Aquino spouses), and a Sarao passenger jeepney^[6] owned by herein Defendant-Appellant Tita Villanueva^[7] (Villanueva) and driven by her employee, Rogelio Bandonill^[8] (Bandonill).

On May 1, 1998, at around 9:30 in the morning, Virgilio was driving the Nissan Vanette and heading north along the National Highway at Brgy. Agat, Sison, Pangasinan. As the Nissan Vanette was slowing down, the passenger jeepney, driven by Bandonill in a reckless manner, hit the rear right side portion of the Nissan Vanette in the act of overtaking the latter. As a result, the vehicle of the Aquino spouses was severely damaged and the amount of Sixty-Four Thousand Three Hundred Pesos(Php64,300.00) was incurred for the repair of the same.

Demands to pay for the repair were made by the Aquino spouse on Villanueva as the owner of the passenger jeepney and employer of Bandonill. However, despite repeated demands, Villanueva failed and refused to heed the same. Hence, the filing of the complaint before the RTC on June 17, 1998 praying for actual, moral, and exemplary damages plus payment to them of attorney's fees and litigation expenses.

Villanueva, meanwhile, claims that it was Virgilio who was negligent in driving his vehicle. Villanueva narrates that in that morning, Bandonill was picking up and conveying passengers along his usual route (Pozorrubio^[9], Pangasinan to Rosario, La Union. While traversing the National Highway at Brgy. Agat, Sison, Panagsinan and heading north, the passenger jeepney was trailing the Nissan Vanette. Suddenly, an Anfra vehicle, parked along the shoulder of the National Highway, went in front of the Nissan Vanette and into the highway proceeding towards the north direction. The

Nissan Vanette then swerved to its left in an effort to avoid hitting the Anfra vehicle, but was not fully able to do so since there approaching from the opposite direction. As the Nissan Vanette slowed down in the middle of the highway, the passenger jeepney bumped the former's rear right portion having no opportunity to avoid

hitting it. Consequently, The passenger jeepney's front left portion was damaged and Villanueva spent Three Thousand Pesos(PhP3,000.00) for repairs. By way of counterclaim, Villanueva asks for payment to her of actual damages, attorney's fees, and costs of suit.

The pre-trial was held on March 10, 1999. For failure to amicably settle the case, trial on the merits, thereafter, ensued. During the trial, Virgilio and Villanueva each testified and narrated their own versions of the incident.

After trial, the RTC rendered on June 10, 2002 a decision disposing the case as follows:

WHEREFORE, judgment is rendered for the plaintiff and against the defendant ordering the latter to pay the former the amount of P40,000.00 as actual damages and pay the cost[sic].

SO ORDERED.^[10]

Aggrieved, Villanueva moved for reconsideration but the same was denied in the Order^[11] dated July 16, 2002.

Hence, the present recourse.

The Issues:

In her appeal, Villanueva assigns the following as errors:

I. The regional trial court erred in awarding damages to the plaintiff[s]/appellee[s] despite its findings[sic] that there is no gross negligence on the part of the defendant.

II. The regional trial court erred in not holding that the defendant/appellant was not negligent in the hiring and supervision of her driver/employee and thus, is free from any liability that may arise by reason for tort.

III. The regional trial court erred in applying the doctrine of last clear chance and in not appreciating the fact that the proximate cause of the accident was the fault of the plaintiff[s]/appelle[s], Hence, no damage should be awarded to him[sic].^[12]

Therefore, the pivotal issue for resolution is: whether or not the RTC was correct in holding Villanueva liable to pay the damages to the Aquino spouses.

This Court's Ruling:

Mainly, Villanueva asserts that she cannot be held liable for the damages incurred by the Aquino spouses. She asserts that there was no finding gross negligence committed by her driver; that the doctrine of last chance is not applicable in this case; and, that considering that her driver was never involved in any road accident or any traffic violation, it cannot be said that she was negligent in the hiring and supervision of her employee.

For their part, the Aquino spouses argue that for damages to be properly awarded, the negligence committed need not be gross. They maintain that Villanueva's drive negligent at the time of collision such that the vicarious liability of Villanueva, as employer, attaches.

After a painstaking review of the records of the instant case, we see no reason to reverse the decision of the RTC.

Settled is the that the findings of fact of the trial court are accorded great weight and respect since it had the unique opportunity to observe the witness firsthand and note the latter's demeanor, conduct, and attitude under examination.^[13] It can, thus, be expected to determine with reasonable discretion which testimony is acceptable and which witness is worthy to belief.^[14]

Absent any showing that the RTC's appreciation of the facts was flawed, we are bound by its assessment. This court will sustain findings unless it can be shown that the trial court ignored, overlooked, misunderstood, misappreciated, or misapplied substantial facts and circumstances, which, if considered, would materially affect the result of the result of the case.^[15]

We find no such circumstances in this case. The RTC's analysis of the facts of the case is noteworthy. It succeeded in presenting a logical picture of the events on the day of the incident. The RTC observed that:

If we consider the claim of the plaintiff regarding the incident, it would appear that[the] defendant is trying to overtake[the] plaintiff's vehicle under a portion of a[sic] National Highway with two yellow lanes in the middle of the road indicating that overtaking is prohibited. Since the defendant is violating a traffic regulation at the time, he is presumed to be negligent under the law. Hence, he is liable for the consequences of his act. However, this court is not convinced by the evidence presented to support this appreciation of fact by the plaintiff. More consistent with the evidence on record is the version of the defendant as to what actually transpired [,] especially the location of the damage of each vehicle as shown in the pictures. If it was true that defendant overtook the plaintiff's car but was disrupted by an incoming [sic] truck, the point of damage of [sic] the plaintiff's vehicle should have been on the rear left side or exactly at the center thereof. But since the damage incurred by the plaintiff's car is on its rear right side[,], and the damage of the defendants s on its left front side. The more logical fact is the claim of [the] defendant.

In spite of that, it is an error for the defendant to claim that[the] plaintiff was negligent. This so because[the] plaintiff[,], in fact[,], avoiding hitting an Anfra vehicle[,], which suddenly went into the highway[,], and avoiding such evil is not a negligent act. Granting that[the] plaintiff is negligent, the defendant has the last clear change to avoid causing damage to[the] plaintiffs car. The Supreme Court stated that the driver who had the last clear chance to avoiding the accident is deemed negligent[,], and drivers of vehicle[s] who bump the rear of another vehicle are presumed to be