[G.R. No. 242328, April 26, 2021]

UCPB GENERAL INSURANCE, CO., INC., PETITIONER, VS. PASCUAL LINER, INC., RESPONDENT.

D E C I S I O N

LOPEZ, J., J.:

The doctrine of *res ipsa loquitor* is an exception to the rule that hearsay evidence is devoid of probative value, whether objected to or not. This is because the doctrine of *res ipsa loquitor* establishes a rule on negligence that can stand on its own, independent of the hearsay character of the evidence presented.

This is a Petition for Review on *Certiorari* under Rule 45 of the Revised Rules of Court seeking the reversal of the Decision[1] of the Court of Appeals (*CA*) dated June 13, 2018 and its Resolution[2] dated September 28, 2018 in CA-G.R. SP No. 149281. The Decision of the CA granted the petition for review under Rule 42 filed by the herein respondent Pascual Liner, Inc. and set aside the Decision[3] dated September 22, 2016 rendered by the Regional Trial Court (*RTC*) Branch 66 of Makati City, which affirmed the Order[4] dated November 17, 2015 rendered by the Metropolitan Trial Court (*MeTC*) Branch 63 of Makati City. In the aforesaid Order, the MeTC found Pascual Liner, Inc. liable to pay the herein petitioner UCPB General Insurance Co. Inc. the amount of Three Hundred Fifty Thousand Pesos (P350,000.00) plus interest, attorney's fees, and cost of suit.

FACTS AND ANTECEDENT PROCEEDINGS

On September 21, 2005, petitioner UCPB General Insurance Co., Inc. (*petitioner*) issued Comprehensive Car Insurance Policy No. DLS05MD-MNP111436 to its assured, Rommel B. Lojo (*Lojo*), over the latter's vehicle, a 1997 BMW A/T 2000 four-door sedan bearing plate number JMU-777 (*insured vehicle*).[5]

On December 09, 2005, at around 3:30 p.m., the insured vehicle was cruising northbound along the South Luzon Expressway in front of Concepcion Bldg. Sucat, Parañaque City when it was bumped at the rear portion by respondent Pascual Liner, Inc.'s (*respondent*) bus with plate number PWN-447 driven by Leopoldo L. Cadavido (*Cadavido*).[6] As a result of the impact, the insured vehicle was pushed forward, causing it to hit another vehicle, an aluminum van with plate number TNR-217 driven by Nilo L. Nuñez. The vehicular accident was investigated by the Traffic Management and Security Department of the Philippine National Construction Corporation (*PNCC*) Skyway Corporation, for which Solomon Tatlonghari (*Tatlonghari*) prepared a Traffic Accident Sketch. Thereafter, the matter was endorsed to the Philippine National Police, for which PO3 Joselito Quila (*PO3 Quila*) prepared a Traffic Accident Report.[7]

Under the Traffic Accident Report, PO3 Quila described the incident as follows:

> Prior to the incident, all involved vehicles were travelling along SLEX heading north direction. [vehicle] 1 (aluminum closed van) ahead of [vehicle] 2 (BMW) and [vehicle] 3 (Pascual bus) respectively. Upon reaching the place of occurrence, [vehicle] 2 was hit on the right rear end by the left front end of [vehicle] 3. Due to the impact [vehicle] 2 was pushed and its front rammed into the rear end of [vehicle] 1.
>
> Driver of [vehicle] 3 claimed that allegedly [vehicle] 2, from the rightmost lane veered to the left and stopped momentarily, thus, a collision.[8]

With serious damage caused to the rear and front portions of the insured vehicle, Lojo filed a claim with petitioner under his insurance policy. Upon examination, the insured vehicle was determined to be beyond economical repair, and after proper evaluation, the claim was found to be compensable by petitioner. In turn, petitioner paid Lojo the amount of Five Hundred Twenty Thousand Pesos (P520,000.00), while Lojo issued a Release of Claim in petitioner's favor, including a waiver of all his rights over the insured vehicle.[9]

On November 12, 2009, petitioner filed a Complaint[10] for sum of money before the RTC against respondent and Cadavido alleging that as a result of Lojo's receipt of the insurance indemnity it paid arising from the damage caused on the insured vehicle, it was subrogated to the rights of Lojo. It asked the court to order respondent and Cadavido to pay the amount of Three Hundred Fifty Thousand Pesos (P350,000.00) equivalent to the amount it paid to Lojo minus the salvage value.[11] The complaint was initially dismissed for lack of jurisdiction as the amount claimed by petitioner falls within the exclusive jurisdiction of the MeTC.

On December 21, 2009, petitioner filed an *Ex-Parte* Motion to Direct Transmittal of Records[12] to the Executive Clerk of Court, which the RTC granted. The case was then raffled to the MeTC Branch 61 and docketed as Civil Case No. 100078. Thereafter, the parties were directed to coordinate with the court sheriff for the expeditious service of summons. However, petitioner failed to comply with the said Order and the complaint was dismissed without prejudice.

On July 26, 2010, petitioner filed an *Ex-Parte* Compliance[13] and the MeTC reconsidered and set aside its Order that dismissed the complaint of petitioner. Per the sheriffs Return dated February 2, 2011, a copy of the summons, together with a copy of the complaint and its annexes, was personally served upon respondent. However, the summons was returned unserved upon Cadavido.[14]

On February 9, 2011, respondent filed its Answer (*with Affirmative Defense*),[15] denying petitioner's allegations. It asserted that the Traffic Accident Report and the Traffic Accident Sketch were not categorical in proving its negligence or that of its employee; rather, these only proved that the driver of the insured vehicle was at fault.

With respect to its affirmative defenses, respondent alleged that the complaint of petitioner must be dismissed due to the following reasons: (1) the cause of action has prescribed, as the alleged accident took place on December 9, 2005, while the complaint was served only on February 2011, thus petitioner failed to prosecute its case for an unreasonable length of time; (2) there is utter lack of compliance with

the appropriate Verification and Certification against Forum Shopping since there is no proof attached to the complaint that the person who signed the aforesaid documents was duly authorized by petitioner; and (3) there is no prior demand to pay petitioner, which is a condition *sine qua non* prior to filing a case for collection and/or sum of money.[16]

On February 17, 2011, petitioner filed its Reply[17] to respondent's Answer, stating that the date of service of summons is not included in counting the prescriptive period and that the complaint was filed on time since it was instituted on November 9, 2009, which falls within four (4) years from the date of occurrence of the accident on December 9, 2005. With respect to the alleged defect in the Verification and Certification Against Forum Shopping, petitioner attached the Secretary's Certificate containing the board resolution that authorized Atty. Francisco M. Nob to sign the said documents. As to the allegation regarding prior demand, petitioner alleged that respondent's conclusion that demand is a condition *sine qua non* to the filing of cases is bereft of merit since demand may be made judicially or extrajudicially, and whichever kind of demand is chosen, if the obligor fails to fulfill its obligation, it will be in *mora solvendi* and liable for damages.

On February 17, 2011, petitioner filed a Request for Admission addressed to respondent. On March 8, 2011, respondent filed a Response thereto admitting that it is the owner of passenger bus with plate no. PWN 447, but denying the following: (**1**) that Cadavido was its employee as of December 9, 2005; (**2**) that Cadavido was tasked to drive the said bus on the said date; and (**3**) that the Traffic Accident Sketch and the Traffic Accident Report were genuine and duly executed.[18]

The parties were later directed to attend the mediation and the judicial dispute resolution, which, however, failed to produce a settlement between the parties. The case was then raffled to the MeTC Branch 63 of Makati City.[19]

Due proceedings were conducted and the parties were given time to file the judicial affidavits of their witnesses. It was only petitioner that complied with the order. Respondent was considered in default in view of its inability to file the required judicial affidavits. Consequently, the case was deemed submitted for decision.[20]

MeTC DECISION

In its Decision[21] dated January 26, 2015, the MeTC found that the proximate cause of the vehicular accident was the negligence of Cadavido in driving respondent's bus. However, to be adjudged as liable to petitioner, respondent must be found to be in default of its obligation. Since demand was not made by petitioner to either respondent or Cadavido, neither of them can be considered to be in default, and thus it cannot be said that there existed a delay for there to arise an obligation to pay. The MeTC added that it did not acquire jurisdiction over Cadavido since the summons upon him was returned unserved.[22]

On Motion for Reconsideration[23] filed by petitioner on April 27, 2015, the MeTC set aside its Decision and rendered an Order[24] dated November 17, 2015, this time finding respondent liable to pay petitioner the amount of P350,000.00, plus interest at the rate of 6% *per annum* and attorney's fees of 25% of the recoverable amount, plus cost of suit. In rendering judgment in favor of petitioner, the MeTC applied the doctrine of *res ipsa loquitor*, which creates a presumption of negligence on the part

of Cadavido who was in control of the bus, without which, the insured vehicle would not have been bumped. Such negligence gave rise to the obligation to pay the insured. Since the assured owner decided to file an insurance claim with petitioner, which the latter paid, petitioner was subrogated to the rights of the assured in claiming for the damages incurred by the assured in accordance with Article 2207 of the New Civil Code. The dismissal of the case against Cadavido was reiterated since the court did not acquire jurisdiction over him as the summons upon him was returned unserved.[25]

RTC DECISION

Respondent appealed the MeTC Order before the RTC, which was raffled to Branch 66 and docketed as R-MKT-16-00862-CV. After due proceedings, the RTC rendered a Decision[26] dated September 22, 2016 affirming *in toto*, the assailed Order. The RTC found that respondent has not clearly demonstrated any reversible error committed by the MeTC. Liability by way of legal subrogation was clearly established by petitioner by preponderance of evidence. Negligence was likewise established taking into consideration the doctrine of *res ipsa loquitor*.

Respondent filed a Motion for Reconsideration,[27] which the RTC denied in an Order[28] dated January 5, 2017.

CA DECISION

Thereafter, respondent elevated the RTC Decision and Order before the CA, which rendered the assailed Decision that reversed the RTC Decision, the dispositive portion of which reads as follows:

> **WHEREFORE**, premises considered, the instant petition is **GRANTED**. The Decision dated September 22, 2016 of the Regional Trial Court, Branch 66, Makati City, in Civil Case No. R-MKT-16-00862-CV, is **REVERSED and SET ASIDE**. Respondent UCPB General Insurance Company, Incorporated's Complaint is **DISMISSED**.
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> **SO ORDERED.**[29]

In its Decision, the CA held that the Traffic Accident Sketch and the Traffic Accident Report were inadmissible in evidence as they failed to comply with the requisites of Entries in Official Records as an exception to the Hearsay Rule. It found that since neither the police officer who prepared the report nor the traffic enforcer who prepared the sketch gave a testimony in support thereof, these documents were not exempted from the Hearsay Rule.[30] It opined that the vehicular incident was investigated by the Traffic Management and Security Department of Department of the PNCC Skyway Corporation, which prepared a Traffic Accident Sketch. The incident was only endorsed to the PNP, which in turn prepared a Traffic Accident Report. Thus, the matters indicated in the Traffic Accident Report were not personally known to the investigating officer. Rather, it was Solomon Tatlonghari, of the PNCC, who had personal knowledge of the facts stated in the Traffic Accident Report. Yet, no affidavit of his testimony was submitted before the MeTC.[31]

Aggrieved, petitioner brought the instant petition for review on *certiorari* under Rule 45. On June 13, 2019, respondent filed its Comment[32] to the petition echoing the CA Decision.

ISSUES

The issues brought forth by petitioner are the following:

> Whether the Court of Appeals erred in ruling that Rule 130, Sec. 40 of the Revised Rules on Evidence is not applicable to the case at bar because the third requisite was not satisfied
>
> Whether the Court of Appeals erred in not applying the doctrine of *res ipsa loquitor*

RULING

At the core of the instant petition is the applicability of the hearsay rule and entries made in official records as an exception thereto, as well as the applicability of the doctrine of *res ipsa loquitor*. While the MeTC and the RTC admitted and appreciated the Traffic Accident Report in favor of petitioner, the CA found otherwise, treating it as an inadmissible hearsay evidence, as it failed to satisfy all the requirements of entries made in official records, which could have made it an admissible hearsay evidence. With respect to the doctrine of *res ipsa loquitor*, the MeTC and the RTC applied the same in favor of petitioner while the CA no longer proceeded to discuss the doctrine since the Traffic Accident Report, which served as the anchor to prove negligence, was found to be inadmissible in evidence.

We shall discuss the applicability of these doctrines *in seriatim*.

Hearsay evidence rule

Under the amended Rules on Evidence,[33] hearsay evidence is defined as follows:

> **Section 37.** *Hearsay*. - Hearsay is a statement other than one made by the declarant while testifying at a trial or hearing, offered to prove the truth of the facts asserted therein. A statement is (1) an oral or written assertion or (2) a non-verbal conduct of a person, if it is intended by him or her as an assertion. Hearsay evidence is inadmissible except as otherwise provided in these Rules.
>
> A statement is not hearsay if the declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is (a) inconsistent with the declarant's testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition; (b) consistent with the declarant's testimony and is offered to rebut an express or implied charge against the declarant of recent fabrication or improper influence or motive; or (c) one of identification of a person made after perceiving him or her. (n)

Nonetheless, at the time when petitioner filed its complaint before the MeTC on December 21, 2009, the prevailing Rules on Evidence was the Rules adopted on March 14, 1989, under which Sec. 36, Rule 130, governed the appreciation of hearsay evidence, to wit:

> **Section 36.** *Testimony generally confined to personal knowledge; hearsay excluded*. — A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules.