

SECOND DIVISION

[G.R. No. 171127, March 11, 2015]

NOEL CASUMPANG, RUBY SANGA-MIRANDA AND SAN JUAN DE DIOS HOSPITAL, PETITIONERS, VS. NELSON CORTEJO, RESPONDENT.

[G.R. No. 171217]

DRA. RUBY SANGA-MIRANDA, PETITIONER, VS. NELSON CORTEJO, RESPONDENT.

[G.R. No. 171228]

SAN JUAN DE DIOS HOSPITAL, PETITIONER, VS. NELSON CORTEJO, RESPONDENT.

D E C I S I O N

BRION, J.:

We resolve the three (3) consolidated petitions for review on *certiorari*^[1] involving medical negligence, commonly assailing the October 29, 2004 decision^[2] and the January 12, 2006 resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 56400. This CA decision affirmed *en toto* the ruling of the Regional Trial Court (RTC), Branch 134, Makati City.

The RTC awarded Nelson Cortejo (*respondent*) damages in the total amount of P595,000.00, for the wrongful death of his son allegedly due to the medical negligence of the petitioning doctors and the hospital.

Factual Antecedents

The common factual antecedents are briefly summarized below.

On April 22, 1988, at about 11:30 in the morning, Mrs. Jesusa Cortejo brought her 11-year old son, Edmer Cortejo (*Edmer*), to the Emergency Room of the San Juan de Dios Hospital (*SJDH*) because of difficulty in breathing, chest pain, stomach pain, and fever.^[4]

Dr. Ramoncito Livelo (*Dr. Livelo*) initially attended to and examined Edmer. In her testimony, Mrs. Cortejo narrated that in the morning of April 20, 1988, Edmer had developed a slight fever that lasted for one day; a few hours upon discovery, she brought Edmer to their family doctor; and two hours after administering medications, Edmer's fever had subsided.^[5]

After taking Edmer's medical history, Dr. Livelo took his vital signs, body temperature, and blood pressure.^[6] Based on these initial examinations and the chest x-ray test that followed, Dr. Livelo diagnosed Edmer with "bronchopneumonia."^[7] Edmer's blood was also taken for testing, typing, and for purposes of administering antibiotics. Afterwards, Dr. Livelo gave Edmer an antibiotic medication to lessen his fever and to loosen his phlegm.

Mrs. Cortejo did not know any doctor at SJDH. She used her Fortune Care card and was referred to an accredited Fortune Care coordinator, who was then out of town. She was thereafter assigned to Dr. Noel Casumpang (*Dr. Casumpang*), a pediatrician also accredited with Fortune Care.^[8]

At 5:30 in the afternoon of the same day, Dr. Casumpang for the first time examined Edmer in his room. Using only a stethoscope, he confirmed the initial diagnosis of "*Bronchopneumonia*."^[9]

At that moment, Mrs. Cortejo recalled entertaining doubts on the doctor's diagnosis. She immediately advised Dr. Casumpang that Edmer had a high fever, and had no colds or cough^[10] but Dr. Casumpang merely told her that her son's "*bloodpressure is just being active*,"^[11] and remarked that "*that's the usual bronchopneumonia, no colds, no phlegm*."^[12]

Dr. Casumpang next visited and examined Edmer at 9:00 in the morning the following day.^[13] Still suspicious about his son's illness, Mrs. Cortejo again called Dr. Casumpang's attention and stated that Edmer had a fever, throat irritation, as well as chest and stomach pain. Mrs. Cortejo also alerted Dr. Casumpang about the traces of blood in Edmer's sputum. Despite these pieces of information, however, Dr. Casumpang simply nodded, inquired if Edmer has an asthma, and reassured Mrs. Cortejo that Edmer's illness is bronchopneumonia.^[14]

At around 11:30 in the morning of April 23, 1988, Edmer vomited "phlegm with blood streak"^[15] prompting the respondent (*Edmer's father*) to request for a doctor at the nurses' station.^[16]

Forty-five minutes later, Dr. Ruby Sanga-Miranda (*Dr. Miranda*), one of the resident physicians of SJDH, arrived. She claimed that although aware that Edmer had vomited "phlegm with blood streak," she failed to examine the blood specimen because the respondent washed it away. She then advised the respondent to preserve the specimen for examination.

Thereafter, Dr. Miranda conducted a physical check-up covering Edmer's head, eyes, nose, throat, lungs, skin and abdomen; and found that Edmer had a low-grade non-continuing fever, and rashes that were not typical of dengue fever.^[17] Her medical findings state:

the patient's rapid breathing and then the lung showed sibilant and the patient's nose is flaring which is a sign that the patient is in respiratory distress; the abdomen has negative finding; the patient has low grade

fever and not continuing; and the rashes in the patient's skin were not "Herman's Rash" and not typical of dengue fever.^[18]

At 3:00 in the afternoon, Edmer once again vomited blood. Upon seeing Dr. Miranda, the respondent showed her Edmer's blood specimen, and reported that Edmer had complained of severe stomach pain and difficulty in moving his right leg.^[19]

Dr. Miranda then examined Edmer's "*sputum with blood*" and noted that he was bleeding. Suspecting that he could be afflicted with dengue, she inserted a plastic tube in his nose, drained the liquid from his stomach with ice cold normal saline solution, and gave an instruction not to pull out the tube, or give the patient any oral medication.

Dr. Miranda thereafter conducted a tourniquet test, which turned out to be negative.^[20] She likewise ordered the monitoring of the patient's blood pressure and some blood tests. Edmer's blood pressure was later found to be normal.^[21]

At 4:40 in the afternoon, Dr. Miranda called up Dr. Casumpang at his clinic and told him about Edmer's condition.^[22] Upon being informed, Dr. Casumpang ordered several procedures done including: *hematocrit, hemoglobin, blood typing, blood transfusion and tourniquet tests*.

The blood test results came at about 6:00 in the evening.

Dr. Miranda advised Edmer's parents that the blood test results showed that Edmer was suffering from "Dengue Hemorrhagic Fever." One hour later, Dr. Casumpang arrived at Edmer's room and he recommended his transfer to the Intensive Care Unit (*ICU*), to which the respondent consented. Since the ICU was then full, Dr. Casumpang suggested to the respondent that they hire a private nurse. The respondent, however, insisted on transferring his son to Makati Medical Center.

After the respondent had signed the waiver, Dr. Casumpang, for the last time, checked Edmer's condition, found that his blood pressure was stable, and noted that he was "comfortable." The respondent requested for an ambulance but he was informed that the driver was nowhere to be found. This prompted him to hire a private ambulance that cost him P600.00.^[23]

At 12:00 midnight, Edmer, accompanied by his parents and by Dr. Casumpang, was transferred to Makati Medical Center.

Dr. Casumpang immediately gave the attending physician the patient's clinical history and laboratory exam results. Upon examination, the attending physician diagnosed "Dengue Fever Stage IV" that was already in its irreversible stage.

Edmer died at 4:00 in the morning of April 24, 1988.^[24] His Death Certificate indicated the cause of death as "Hypovolemic Shock/hemorrhagic shock;" "Dengue Hemorrhagic Fever Stage IV."

Believing that Edmer's death was caused by the negligent and erroneous diagnosis of his doctors, the respondent instituted an action for damages against SJDH, and its attending physicians: Dr. Casumpang and Dr. Miranda (*collectively referred to as*

the "petitioners") before the RTC of Makati City.

The Ruling of the Regional Trial Court

In a decision^[25] dated May 30, 1997, the RTC ruled in favor of the respondent, and awarded actual and moral damages, plus attorney's fees and costs.

In ruling that the petitioning doctors were negligent, the RTC found untenable the petitioning doctors' contention that Edmer's initial symptoms did not indicate dengue fever. It faulted them for heavily relying on the chest x-ray result and for not considering the other manifestations that Edmer's parents had relayed. It held that in diagnosing and treating an illness, the physician's conduct should be judged not only by what he/she saw and knew, but also by what he/she could have reasonably seen and known. It also observed that based on Edmer's signs and symptoms, his medical history and physical examination, and also *the information that the petitioning doctors gathered from his family members*, dengue fever was a reasonably foreseeable illness; yet, the petitioning doctors failed to take a second look, much less, consider these indicators of dengue.

The trial court also found that aside from their self-serving testimonies, the petitioning doctors did not present other evidence to prove that they exercised the proper medical attention in diagnosing and treating the patient, leading it to conclude that they were guilty of negligence.

The RTC also held SJDH solidarity liable with the petitioning doctors for damages based on the following findings of facts: *first*, Dr. Casumpang, as consultant, is an **ostensible agent of SJDH** because before the hospital engaged his medical services, it scrutinized and determined his fitness, qualifications, and competence as a medical practitioner; and *second*, Dr. Miranda, as resident physician, is an **employee of SJDH** because like Dr. Casumpang, the hospital, through its screening committee, scrutinized and determined her qualifications, fitness, and competence before engaging her services; the hospital also exercised control over her work.

The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants, ordering the latter to pay solidarity and severally plaintiff the following:

- (1) Moral damages in the amount of P500,000.00;
- (2) Costs of burial and funeral in the amount of P45,000.00;
- (3) Attorney's fees of P50,000.00; and
- (4) Cost of this suit.

SO ORDERED.

The petitioners appealed the decision to the CA.

The Ruling of the Court of Appeals

In its decision dated October 29, 2004, the CA affirmed *en toto* the RTC's ruling, finding that SJDH and its attending physicians failed to exercise the minimum medical care, attention, and treatment expected of an ordinary doctor under like circumstances.

The CA found the petitioning doctors' failure to read even the most basic signs of "*dengue fever*" expected of an ordinary doctor as medical negligence. The CA also considered the petitioning doctors' testimonies as self-serving, noting that they presented no other evidence to prove that they exercised due diligence in diagnosing Edmer's illness.

The CA likewise found Dr. Rodolfo Jaudian's (*Dr. Jaudian*) testimony admissible. It gave credence to his opinion^[26] that: *(1) given the exhibited symptoms of the patient, dengue fever should definitely be considered, and bronchopneumonia could be reasonably ruled out; and (2) dengue fever could have been detected earlier than 7:30 in the evening of April 23, 1988 because the symptoms were already evident;* and agreed with the RTC that the petitioning doctors should not have solely relied on the chest-x-ray result, as it was not conclusive.

On SJDH's solidary liability, the CA ruled that the hospital's liability is based on Article 2180 of the Civil Code. The CA opined that the control which the hospital exercises over its consultants, the hospital's power to hire and terminate their services, all fulfill the employer-employee relationship requirement under Article 2180.

Lastly, the CA held that SJDH failed to adduce evidence showing that it exercised the diligence of a good father of a family in the hiring and the supervision of its physicians.

The petitioners separately moved to reconsider the CA decision, but the CA denied their motion in its resolution of January 12, 2006; hence, the present consolidated petitions pursuant to Rule 45 of the Rules of Court.

The Petitions

I. Dr. Casumpang's Position (G.R. No. 171127)

Dr. Casumpang contends that he gave his patient medical treatment and care to the best of his abilities, and within the proper standard of care required from physicians under similar circumstances. He claims that his initial diagnosis of bronchopneumonia was supported by the chest x-ray result.

Dr. Casumpang also contends that dengue fever occurs only after several days of confinement. He alleged that when he had suspected that Edmer might be suffering from dengue fever, he immediately attended and treated him.

Dr. Casumpang likewise raised serious doubts on Dr. Jaudian's credibility, arguing that the CA erred in appreciating his testimony as an expert witness since he lacked the necessary training, skills, and experience as a specialist in dengue fever cases.

II. Dr. Miranda's Position (G.R. No. 171217)