

## THIRD DIVISION

[ G.R. No. 192973, September 29, 2014 ]

**PEDRITO DELA TORRE, PETITIONER, VS. DR. ARTURO IMBUIDO, DRA. NORMA IMBUIDO in their capacity as owners and operators of DIVINE SPIRIT GENERAL HOSPITAL AND/OR DR. NESTOR PASAMBA, RESPONDENTS.**

### R E S O L U T I O N

**REYES, J.:**

This resolves the petition for review on *certiorari*<sup>[1]</sup> filed by petitioner Pedrito Dela Torre (Pedrito) assailing the Decision<sup>[2]</sup> dated December 15, 2009 and Resolution<sup>[3]</sup> dated July 27, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 78534.

The case stemmed from a complaint<sup>[4]</sup> for damages filed by Pedrito against herein respondents Dr. Arturo Imbuido and Dr. Norma Imbuido (Dr. Norma), in their capacity as the owners and operators of the Divine Spirit General Hospital in Olongapo City, and Dr. Nestor Pasamba (Dr. Nestor) (respondents). Pedrito alleged in his complaint that he was married to one Carmen Castillo Dela Torre (Carmen), who died while admitted at the Divine Spirit General Hospital on February 13, 1992. Carmen was due to give birth on February 2, 1992 and was brought at around 11:30 p.m. on that day by Pedrito to the Divine Spirit General Hospital. When Carmen still had not delivered her baby at the expected time, Dr. Norma discussed with Pedrito the possibility of a caesarean section operation.<sup>[5]</sup>

At around 3:00 p.m. on February 3, 1992, Carmen was brought to the hospital's operating room for her caesarian section operation, which was to be performed by Dr. Nestor. By 5:30 p.m. of the same day, Pedrito was informed of his wife's delivery of a baby boy. In the early morning of February 4, 1992, Carmen experienced abdominal pain and difficulty in urinating. She was diagnosed to be suffering from urinary tract infection (UTI), and was prescribed medications by Dr. Norma. On February 10, 1992, Pedrito noticed that Carmen's stomach was getting bigger, but Dr. Norma dismissed the patient's condition as mere flatulence (*kabag*).<sup>[6]</sup>

When Carmen's stomach still grew bigger despite medications, Dr. Norma advised Pedrito of the possibility of a second operation on Carmen. Dr. Norma, however, provided no details on its purpose and the doctor who would perform it. At around 3:00 p.m. on February 12, 1992, Carmen had her second operation. Later in the evening, Dr. Norma informed Pedrito that "everything was going on fine with [his] wife."<sup>[7]</sup>

The condition of Carmen, however, did not improve. It instead worsened that on February 13, 1992, she vomited dark red blood. At 9:30 p.m. on the same day, Carmen died.<sup>[8]</sup> Per her certificate of death upon information provided by the

hospital, the immediate cause of Carmen's death was "cardio-respiratory arrest secondary to cerebro vascular accident, hypertension and chronic nephritis induced by pregnancy."<sup>[9]</sup> An autopsy report<sup>[10]</sup> prepared by Dr. Richard Patilano (Dr. Patilano), Medico-Legal Officer-Designate of Olongapo City, however, provided that the cause of Carmen's death was "shock due to peritonitis, severe, with multiple intestinal adhesions; Status post C[a]esarian Section and Exploratory Laparotomy."

Pedrito claimed in his complaint that the respondents "failed to exercise the degree of diligence required of them" as members of the medical profession, and were "negligent for practicing surgery on [Carmen] in the most unskilled, ignorant and cruel manner, x x x[.]"<sup>[11]</sup>

In their answer<sup>[12]</sup> to the complaint, the respondents argued that they "observed the required standard of medical care in attending to the needs of Carmen."<sup>[13]</sup> The respondents explained that Carmen was admitted in Divine Spirit General Hospital for "pregnancy in labor and pre-eclampsia." Her condition was closely monitored during her confinement. A caesarian section operation became necessary, as she manifested no significant progress for the spontaneous delivery of her baby.<sup>[14]</sup> No unusual events were observed during the course of Carmen's caesarian section operation. The second surgery, however, became necessary due to suspected intestinal obstruction and adhesions. This procedure was fully explained to Carmen and Pedrito prior to its conduct. During the second operation, the diagnosis of intestinal obstruction and adhesion was confirmed but resolved by her doctors. Despite the observance of due care by the doctors, however, Carmen died on February 13, 1992.<sup>[15]</sup>

The respondents included in their answer a counterclaim for P48,515.58 as unpaid hospital charges, professional fees and medicines, P3,000,000.00 for moral damages, P1,500,000.00 for exemplary damages, and attorney's fees.<sup>[16]</sup>

After the pre-trial conference, trial proper ensued. To support his claim, Pedrito presented the testimony of Dr. Patilano, the medicolegal officer who conducted an autopsy on the body of Carmen upon a telephone request made by the City Health Officer of Olongapo City, Dr. Generoso Espinosa. Among Dr. Patilano's observations, as narrated in the lower court's decision, were as follows:

In the intestines, [Dr. Patilano] found out that it was more reddish than the normal condition which is supposed to be pinkish. There was presence of adhesions, meaning, it sticks to each other and these areas were dilated. There were constricted areas. He concluded that there might have been foreign organic matters in the intestines. He did not see any swelling but assuming that there was, it would be concomitant to the enlargement. x x x He came to the conclusion that the cause of death was peritonitis, with the multiple adhesions status in the post caesarian section. In connection with peritonitis, this is the inflammation of the abdomen. This peritonitis in the abdominal cavity may be caused by several conditions which are supposed to be infections, entrance of foreign bodies in the intestines in connection with ruptured peptic ulcer or [may be] somewhere in the spleen. The entrance of foreign object in the abdominal cavities may cause severe infections of the intra-

abdominal cavities resulting [in] multiple adhesions of the intestines. In cases of surgical operation, it [may be] due to the conditions of the instruments used, the materials used in the operating room being not aseptic and the ladies assisting the operation were not in uniform. x x x.

[17]

Dr. Patilano claimed that peritonitis could have been prevented through proper medical procedures and medicines. He also stated that if the cause of Carmen's death was actually cerebro-vascular accident, there would have been ruptured blood vessels and blood clot in her head; but there were none in Carmen's case.[18]

Among those who testified to refute Pedrito's claim was Dr. Nestor. He claimed that when Carmen was referred to him on February 3, 1992, she was in full term uterine pregnancy, with pre-eclampsia, fetal distress and active labor pains. A caesarian section operation became necessary to terminate the pregnancy for her safety. Carmen was ready to go home four days after giving birth, but was advised by the doctors to stay more because of her persistent hypertension.[19]

The second surgery performed on Carmen was necessary after she showed symptoms of intestinal obstruction, which happens as the intestines get twisted due to adhesions and the normal flow of intestinal contents are obstructed. For Dr. Nestor, this occurrence was not preventable since any interference of the abdominal cavity would irritate the serosa of the intestines, inviting adhesions that could cause obstruction. Surgery could remedy the adhesions and obstruction.[20] Both Carmen and Pedrito gave their written consent to this second procedure.[21]

Dr. Bienvenido G. Torres (Dr. Torres), Chief of the Medico-Legal Division of the Philippine National Police (PNP) Crime Laboratory Service,[22] also testified for the respondents. He claimed that based on Dr. Patilano's report, vital internal organs of Carmen, such as her brain, lungs, kidneys, liver and adrenal glands, were not examined during the autopsy.[23]

On January 28, 2003, the Regional Trial Court (RTC) of Olongapo City, Branch 75, rendered its Decision[24] in favor of Pedrito. The trial court gave greater weight to the testimony of Dr. Patilano and thus disposed of the case as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants, ordering the latter to pay jointly and severally, the former, the following sums of money, to wit:

- 1.) the sum of Php 28,759.46 as actual damages;
- 2.) the sum of Fifty Thousand (Php 50,000.00) Pesos as indemnity for the death of Carmen dela Torre;
- 3.) the sum of Fifty Thousand (Php 50,000.00) Pesos as moral damages and the further sum of Twenty Thousand (Php 20,000.00) Pesos as exemplary damages;

4.) the sum of Twenty Thousand (Php 20,000.00) Pesos as attorney's fees; and

5.) the costs of [suit].

SO ORDERED.<sup>[25]</sup>

Dissatisfied with the RTC ruling, the respondents appealed to the CA. On December 15, 2009, the CA rendered its Decision reversing and setting aside the decision of the RTC. For the appellate court, it was not established that the respondents failed to exercise the degree of diligence required of them by their profession as doctors. The CA also granted the respondents' counterclaim for the amount of P48,515.58, as it held:

**WHEREFORE**, the Decision of the Regional Trial Court of Olongapo City dated January 28, 2003 in Civil Case No. 165-0-92 is hereby **REVERSED AND SET ASIDE**.

Plaintiff-appellee is directed to pay the unpaid balance for hospital bills, professional fees and other expenses in the amount of [P]48,515.58.

**SO ORDERED.**<sup>[26]</sup>

Hence, this petition for review on *certiorari* in which Pedrito insists that the respondents should be held liable for the death of Carmen.

The petition is denied.

"[M]edical malpractice or, more appropriately, medical negligence, is that type of claim which a victim has available to him or her to redress a wrong committed by a medical professional which has caused bodily harm." In order to successfully pursue such a claim, a patient, or his or her family as in this case, "must prove that a health care provider, in most cases a physician, either failed to do something which a reasonably prudent health care provider would have done, or that he or she did something that a reasonably prudent provider would not have done; and that failure or action caused injury to the patient."<sup>[27]</sup>

The Court emphasized in *Lucas, et al. v. Tuaño*<sup>[28]</sup> that in medical negligence cases, there is a physician-patient relationship between the doctor and the victim, but just like in any other proceeding for damages, four essential elements must be established by the plaintiff, namely: (1) duty; (2) breach; (3) injury; and (4) proximate causation. All four elements must be present in order to find the physician negligent and, thus, liable for damages.<sup>[29]</sup>

It is settled that a physician's duty to his patient relates to his exercise of the degree of care, skill and diligence which physicians in the same general neighborhood, and in the same general line of practice, ordinarily possess and exercise in like cases. There is breach of this duty when the patient is injured in body or in health. Proof of this breach rests upon the testimony of an expert witness that the treatment