

THIRD DIVISION

[G.R. No. 184905, August 28, 2009]

LAMBERT S. RAMOS, PETITIONER, VS. C.O.L. REALTY CORPORATION, RESPONDENT.

D E C I S I O N

YNARES-SANTIAGO, J.:

The issue for resolution is whether petitioner can be held solidarily liable with his driver, Rodel Ilustrisimo, to pay respondent C.O.L. Realty the amount of P51,994.80 as actual damages suffered in a vehicular collision.

The facts, as found by the appellate court, are as follows:

On or about 10:40 o'clock in the morning of 8 March 2004, along Katipunan (Avenue), corner Rajah Matanda (Street), Quezon City, a vehicular accident took place between a Toyota Altis Sedan bearing Plate Number XDN 210, owned by petitioner C.O.L. Realty Corporation, and driven by Aquilino Larin ("Aquilino"), and a Ford Expedition, owned by x x x Lambert Ramos (Ramos) and driven by Rodel Ilustrisimo ("Rodel"), with Plate Number LSR 917. A passenger of the sedan, one Estela Maliwat ("Estela") sustained injuries. She was immediately rushed to the hospital for treatment.

(C.O.L. Realty) averred that its driver, Aquilino, was slowly driving the Toyota Altis car at a speed of five to ten kilometers per hour along Rajah Matanda Street and has just crossed the center lane of Katipunan Avenue when (Ramos') Ford Expedition violently rammed against the car's right rear door and fender. With the force of the impact, the sedan turned 180 degrees towards the direction where it came from.

Upon investigation, the Office of the City Prosecutor of Quezon City found probable cause to indict Rodel, the driver of the Ford Expedition, for Reckless Imprudence Resulting in Damage to Property. In the meantime, petitioner demanded from respondent reimbursement for the expenses incurred in the repair of its car and the hospitalization of Estela in the aggregate amount of P103,989.60. The demand fell on deaf ears prompting (C.O.L. Realty) to file a Complaint for Damages based on quasi-delict before the Metropolitan Trial Court of Metro Manila (MeTC), Quezon City, docketed as Civil Case No. 33277, and subsequently raffled to Branch 42.

As could well be expected, (Ramos) denied liability for damages insisting that it was the negligence of Aquilino, (C.O.L. Realty's) driver, which was the proximate cause of the accident. (Ramos) maintained that the sedan

car crossed Katipunan Avenue from Rajah Matanda Street despite the concrete barriers placed thereon prohibiting vehicles to pass through the intersection.

(Ramos) further claimed that he was not in the vehicle when the mishap occurred. He asserted that he exercised the diligence of a good father of a family in the selection and supervision of his driver, Rodel.

Weighing the respective evidence of the parties, the MeTC rendered the Decision dated 1 March 2006 exculpating (Ramos) from liability, thus:

"WHEREFORE, the instant case is DISMISSED for lack of merit. The Counterclaims of the defendant are likewise DISMISSED for lack of sufficient factual and legal basis.

SO ORDERED."

The aforesaid judgment did not sit well with (C.O.L. Realty) so that he (sic) appealed the same before the RTC of Quezon City, raffled to Branch 215, which rendered the assailed Decision dated 5 September 2006, affirming the MeTC's Decision. (C.O.L. Realty's) Motion for Reconsideration met the same fate as it was denied by the RTC in its Order dated 5 June 2007.^[1]

C.O.L. Realty appealed to the Court of Appeals which affirmed the view that Aquilino was negligent in crossing Katipunan Avenue from Rajah Matanda Street since, as per Certification of the Metropolitan Manila Development Authority (MMDA) dated November 30, 2004, such act is specifically prohibited. Thus:

This is to certify that as per records found and available in this office **the crossing of vehicles at Katipunan Avenue from Rajah Matanda Street to Blue Ridge Subdivision, Quezon City has (sic) not allowed since January 2004 up to the present in view of the ongoing road construction at the area.**^[2] (Emphasis supplied)

Barricades were precisely placed along the intersection of Katipunan Avenue and Rajah Matanda Street in order to prevent motorists from crossing Katipunan Avenue. Nonetheless, Aquilino crossed Katipunan Avenue through certain portions of the barricade which were broken, thus violating the MMDA rule.^[3]

However, the Court of Appeals likewise noted that at the time of the collision, Ramos' vehicle was moving at high speed in a busy area that was then the subject of an ongoing construction (the Katipunan Avenue-Boni Serrano Avenue underpass), then smashed into the rear door and fender of the passenger's side of Aquilino's car, sending it spinning in a 180-degree turn.^[4] It therefore found the driver Rodel guilty of contributory negligence for driving the Ford Expedition at high speed along a busy intersection.

Thus, on May 28, 2008, the appellate court rendered the assailed Decision,^[5] the dispositive portion of which reads, as follows:

WHEREFORE, the Decision dated 5 September 2006 of the Regional Trial Court of Quezon City, Branch 215 is hereby MODIFIED in that respondent Lambert Ramos is held solidarily liable with Rodel Ilustrisimo to pay petitioner C.O.L. Realty Corporation the amount of P51,994.80 as actual damages. Petitioner C.O.L. Realty Corporation's claim for exemplary damages, attorney's fees and cost of suit are DISMISSED for lack of merit.

SO ORDERED.

Petitioner filed a Motion for Reconsideration but it was denied. Hence, the instant petition, which raises the following sole issue:

THE COURT OF APPEALS' DECISION IS CONTRARY TO LAW AND JURISPRUDENCE, AND THE EVIDENCE TO SUPPORT AND JUSTIFY THE SAME IS INSUFFICIENT.

We resolve to GRANT the petition.

There is no doubt in the appellate court's mind that Aquilino's violation of the MMDA prohibition against crossing Katipunan Avenue from Rajah Matanda Street was the **proximate cause** of the accident. Respondent does not dispute this; in its Comment to the instant petition, it even conceded that petitioner was guilty of mere contributory negligence.^[6]

Thus, the Court of Appeals acknowledged that:

The *Certification* dated 30 November 2004 of the Metropolitan Manila Development Authority (MMDA) evidently disproved (C.O.L. Realty's) barefaced assertion that its driver, Aquilino, was not to be blamed for the accident -

"TO WHOM IT MAY CONCERN:

This is to certify that as per records found and available in this office the crossing of vehicles at Katipunan Avenue from Rajah Matanda Street to Blue Ridge Subdivision, Quezon City has (sic) not allowed since January 2004 up to the present in view of the ongoing road construction at the area.

This certification is issued upon request of the interested parties for whatever legal purpose it may serve."

(C.O.L. Realty) admitted that there were barricades along the intersection of Katipunan Avenue and Rajah Matanda Street. The barricades were placed thereon to caution drivers not to pass through the intersecting roads. This prohibition stands even if, as (C.O.L. Realty) claimed, the "barriers were broken" at that point creating a small gap through which any vehicle could pass. What is clear to Us is that Aquilino recklessly ignored these barricades and drove through it. Without doubt, his negligence is established by the fact that he violated a traffic regulation. This finds support in Article 2185 of the Civil Code -

"Unless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap, he was violating any traffic regulation."

Accordingly, there ought to be no question on (C.O.L. Realty's) negligence which resulted in the vehicular mishap.^[7]

However, it also declared Ramos liable vicariously for Rodel's **contributory negligence** in driving the Ford Expedition at high speed along a busy intersection. On this score, the appellate court made the following pronouncement:

As a professional driver, Rodel should have known that driving his vehicle at a high speed in a major thoroughfare which was then subject of an on-going construction was a perilous act. He had no regard to (sic) the safety of other vehicles on the road. Because of the impact of the collision, (Aquilino's) sedan made a 180-degree turn as (Ramos') Ford Expedition careened and smashed into its rear door and fender. We cannot exculpate Rodel from liability.

Having thus settled the contributory negligence of Rodel, this created a presumption of negligence on the part of his employer, (Ramos). For the employer to avoid the solidary liability for a tort committed by his employee, an employer must rebut the presumption by presenting adequate and convincing proof that in the selection and supervision of his employee, he or she exercises the care and diligence of a good father of a family. Employers must submit concrete proof, including documentary evidence, that they complied with everything that was incumbent on them.

(Ramos) feebly attempts to escape vicarious liability by averring that Rodel was highly recommended when he applied for the position of family driver by the Social Service Committee of his parish. A certain Ramon Gomez, a member of the church's livelihood program, testified that a background investigation would have to be made before an applicant is recommended to the parishioners for employment. (Ramos) supposedly tested Rodel's driving skills before accepting him for the job. Rodel has been his driver since 2001, and except for the mishap in 2004, he has not been involved in any road accident.