

## FIRST DIVISION

[ G.R. NO. 172122, June 22, 2007 ]

**MERCURY DRUG CORPORATION AND ROLANDO J. DEL ROSARIO,  
PETITIONERS, VS. SPOUSES RICHARD HUANG AND CARMEN  
HUANG, AND STEPHEN HUANG, RESPONDENTS.**

### D E C I S I O N

**PUNO, C.J.:**

On appeal are the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals in CA-G.R. CV No. 83981, dated February 16, 2006 and March 30, 2006, respectively which affirmed with modification the Decision<sup>[3]</sup> of the Regional Trial Court (RTC) of Makati City, dated September 29, 2004. The trial court found petitioners jointly and severally liable to pay respondents damages for the injuries sustained by respondent Stephen Huang, son of respondent spouses Richard and Carmen Huang.

First, the facts:

Petitioner Mercury Drug Corporation (Mercury Drug) is the registered owner of a six-wheeler 1990 Mitsubishi Truck with plate number PRE 641 (truck). It has in its employ petitioner Rolando J. del Rosario as driver. Respondent spouses Richard and Carmen Huang are the parents of respondent Stephen Huang and own the red 1991 Toyota Corolla GLI Sedan with plate number PTT 775 (car).

These two vehicles figured in a road accident on December 20, 1996 at around 10:30 p.m. within the municipality of Taguig, Metro Manila. Respondent Stephen Huang was driving the car, weighing 1,450 kg., while petitioner Del Rosario was driving the truck, weighing 14,058 kg. Both were traversing the C-5 Highway, north bound, coming from the general direction of Alabang going to Pasig City. The car was on the left innermost lane while the truck was on the next lane to its right, when the truck suddenly swerved to its left and slammed into the front right side of the car. The collision hurled the car over the island where it hit a lamppost, spun around and landed on the opposite lane. The truck also hit a lamppost, ran over the car and zigzagged towards, and finally stopped in front of Buellah Land Church.

At the time of the accident, petitioner Del Rosario only had a Traffic Violation Receipt (TVR). His driver's license had been confiscated because he had been previously apprehended for reckless driving.

The car, valued at P300,000.00, was a total wreck. Respondent Stephen Huang sustained massive injuries to his spinal cord, head, face, and lung. Despite a series of operations, respondent Stephen Huang is paralyzed for life from his chest down and requires continuous medical and rehabilitation treatment.

Respondents fault petitioner Del Rosario for committing gross negligence and

reckless imprudence while driving, and petitioner Mercury Drug for failing to exercise the diligence of a good father of a family in the selection and supervision of its driver.

In contrast, petitioners allege that the immediate and proximate cause of the accident was respondent Stephen Huang's recklessness. According to petitioner Del Rosario, he was driving on the left innermost lane when the car bumped the truck's front right tire. The truck then swerved to the left, smashed into an electric post, crossed the center island, and stopped on the other side of the highway. The car likewise crossed over the center island and landed on the same portion of C-5. Further, petitioner Mercury Drug claims that it exercised due diligence of a good father of a family in the selection and supervision of all its employees.

The trial court, in its Decision dated September 29, 2004, found petitioners Mercury Drug and Del Rosario jointly and severally liable to pay respondents actual, compensatory, moral and exemplary damages, attorney's fees, and litigation expenses. The dispositive portion reads:

WHEREFORE, judgment is rendered finding defendants Mercury Drug Corporation, Inc. and Rolando del Rosario, jointly and severally liable to pay plaintiffs Spouses Richard Y. Huang and Carmen G. Huang, and Stephen Huang the following amounts:

1. Two Million Nine Hundred Seventy Three Thousand Pesos (P2,973,000.00) actual damages;
2. As compensatory damages:
  - a. Twenty Three Million Four Hundred Sixty One Thousand, and Sixty-Two Pesos (P23,461,062.00) for life care cost of Stephen;
  - b. Ten Million Pesos (P10,000,000.00) as and for lost or impaired earning capacity of Stephen;
3. Four Million Pesos (P4,000,000.00) as moral damages;
4. Two Million Pesos (P2,000,000.00) as exemplary damages; and
5. One Million Pesos (P1,000,000.00) as attorneys fees and litigation expense.<sup>[4]</sup>

On February 16, 2006, the Court of Appeals affirmed the decision of the trial court but reduced the award of moral damages to P1,000,000.00. The appellate court also denied the motion for reconsideration filed by petitioners.

Hence, this appeal.

Petitioners cite the following grounds for their appeal:

1. That the subject Decision which dismissed the appeal of petitioners herein but AFFIRMED WITH MODIFICATION the decision of the Regional Trial Court, Branch 64, Makati City, in that the award of

moral damages was reduced to P1,000,000.00 and its Resolution dated March 30, 2006, which dismissed outright the Motion for Reconsideration must be set aside because the Honorable Court of Appeals committed reversible error:

- A. IN DENYING OUTRIGHTLY THE MOTION FOR RECONSIDERATION ON ALLEGEDLY BEING FILED OUT OF TIME FOR ONE DAY;
- B. IN ACCORDING GREATER WEIGHT TO THE EVIDENCE ADDUCED BY THE RESPONDENTS HEREIN AND COMPLETELY DISREGARDING THE DEFENSE INTERPOSED BY THE PETITIONERS HEREIN;
- C. IN DISREGARDING COMPLETELY ALL EVIDENCES PRESENTED BY THE PETITIONERS HEREIN AND PROCEEDED TO RENDER ITS DECISION BASED ON PRESUMPTIONS AND PERSONAL OPINIONS OF PEOPLE WHO ARE NOT WITNESSES TO THE ACCIDENT;
- D. IN AWARDING DAMAGES IN FAVOR OF RESPONDENTS HEREIN;
- E. IN FINDING THAT MERCURY DRUG CORPORATION FAILED TO EXERCISE THE DILIGENCE REQUIRED IN SUPERVISING ITS EMPLOYEES DESPITE OVERWHELMING EVIDENCE PRESENTED BY PETITIONER COMPANY;
- F. IN FINDING THAT PETITIONER ROLANDO DEL ROSARIO WAS NEGLIGENT IN DRIVING THE TRUCK AT THE TIME OF ACCIDENT AND TOTALLY DISREGARDING THE EVIDENCES PRESENTED DURING THE TRIAL OF THE CASE.
- G. IN PRESENTING ONLY IN THE DECISION TESTIMONIES FAVORABLE TO THE RESPONDENTS HEREIN AND COMPLETELY DISREGARDING THE EVIDENCES PRESENTED BY THE PETITIONERS HEREIN WHICH CONTRADICTED SUCH TESTIMONIES NOT ONLY THROUGH ORAL TESTIMONIES BUT AS WELL AS DOCUMENTARY EVIDENCES.<sup>[5]</sup>

We affirm the findings of the trial court and the appellate court that petitioner Del Rosario was negligent. The evidence does not support petitioners' claim that at the time of the accident, the truck was at the left inner lane and that it was respondent Stephen Huang's car, at its right, which bumped the right front side of the truck. Firstly, petitioner Del Rosario could not precisely tell which part of the truck was hit by the car,<sup>[6]</sup> despite the fact that the truck was snub-nosed and a lot higher than the car. Petitioner Del Rosario could not also explain why the car landed on the opposite lane of C-5 which was on its left side. He said that "the car did not pass in front of him after it hit him or under him or over him or behind him."<sup>[7]</sup> If the truck were really at the left lane and the car were at its right, and the car hit the truck at its front right side, the car would not have landed on the opposite side, but would have been thrown to the right side of the C-5 Highway. Noteworthy on this issue is

the testimony of Dr. Marlon Rosendo H. Daza, an expert in the field of physics. He conducted a study based on the following assumptions provided by respondents:

1. Two vehicles collided;
2. One vehicle is ten times heavier, more massive than the other;
3. Both vehicles were moving in the same direction and at the same speed of about 85 to 90 kilometers per hour;
4. The heavier vehicle was driving at the innermost left lane, while the lighter vehicle was at its right.

Dr. Daza testified that given the foregoing assumptions, if the lighter vehicle hits the right front portion of the heavier vehicle, the general direction of the light vehicle after the impact would be to the right side of the heavy vehicle, not the other way around. The truck, he opined, is more difficult to move as it is heavier. It is the car, the lighter vehicle, which would move to the right of, and away from the truck. Thus, there is very little chance that the car will move towards the opposite side, *i.e.*, to the left of the truck.

Dr. Daza also gave a further study on the basis of the same assumptions except that the car is on the left side of the truck, in accordance with the testimony of respondent Stephen Huang. Dr. Daza concluded that the general direction of the car after impact would be to the left of the truck. In this situation, the middle island against which the car was pinned would slow down the car, and enable the truck to catch up and hit the car again, before running over it.<sup>[8]</sup>

To support their thesis, petitioners tried to show the damages that the truck sustained at its front right side. The attempt does not impress. The photographs presented were taken a month after the accident, and Rogelio Pantua, the automechanic who repaired the truck and authenticated the photographs, admitted that there were damages also on the left side of the truck.<sup>[9]</sup>

Worse still, petitioner Del Rosario further admitted that after the impact, he lost control of the truck and failed to apply his brakes. Considering that the car was smaller and lighter than the six-wheeler truck, the impact allegedly caused by the car when it hit the truck could not possibly be so great to cause petitioner to lose all control that he failed to even step on the brakes. He testified, as follows:

ATTY. DIAZ:

May I proceed, Your Honor. You were able to apply the brakes, were you sir?

WITNESS:

No more, sir, because I went over the island.

ATTY. DIAZ:

Because as you said you lost control, correct sir?

WITNESS:

Yes, sir.

ATTY. DIAZ:

In other words, sir from the time your truck was hit according to you up to the time you rested on the shoulder, you traveled fifty meters?

WITNESS:

Yes, sir, about that distance.

ATTY. DIAZ:

And this was despite the fact that you were only traveling at the speed of seventy five kilometers per hour, jumped over the island, hit the lamppost, and traveled the three lanes of the opposite lane of C-5 highway, is that what you want to impress upon this court?

WITNESS:

Yes, sir.<sup>[10]</sup>

We therefore find no cogent reason to disturb the findings of the RTC and the Court of Appeals. The evidence proves petitioner Del Rosario's negligence as the direct and proximate cause of the injuries suffered by respondent Stephen Huang. Petitioner Del Rosario failed to do what a reasonable and prudent man would have done under the circumstances.

We now come to the liability of petitioner Mercury Drug as employer of Del Rosario. Articles 2176 and 2180 of the Civil Code provide:

Art. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.

Art. 2180. The obligation imposed by article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

x x x

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

x x x