

FIRST DIVISION

[G.R. No. 124354, April 11, 2002]

ROGELIO E. RAMOS AND ERLINDA RAMOS, IN THEIR OWN BEHALF AND AS NATURAL GUARDIANS OF THE MINORS, ROMMEL RAMOS, ROY RODERICK RAMOS, AND RON RAYMOND RAMOS, PETITIONERS, VS. COURT OF APPEALS, DE LOS SANTOS MEDICAL CENTER, DR. ORLINO HOSAKA AND DR. PERFECTA GUTIERREZ, RESPONDENTS.

R E S O L U T I O N

KAPUNAN, J.:

Private respondents De Los Santos Medical Center, Dr. Orlino Hosaka and Dr. Perfecta Gutierrez move for a reconsideration of the Decision, dated December 29, 1999, of this Court holding them civilly liable for petitioner Erlinda Ramos' comatose condition after she delivered herself to them for their professional care and management.

For better understanding of the issues raised in private respondents' respective motions, we will briefly restate the facts of the case as follows:

Sometime in 1985, petitioner Erlinda Ramos, after seeking professional medical help, was advised to undergo an operation for the removal of a stone in her gall bladder (*cholecystectomy*). She was referred to Dr. Hosaka, a surgeon, who agreed to perform the operation on her. The operation was scheduled for June 17, 1985 at 9:00 in the morning at private respondent De Los Santos Medical Center (DLSMC). Since neither petitioner Erlinda nor her husband, petitioner Rogelio, knew of any anesthesiologist, Dr. Hosaka recommended to them the services of Dr. Gutierrez.

Petitioner Erlinda was admitted to the DLSMC the day before the scheduled operation. By 7:30 in the morning of the following day, petitioner Erlinda was already being prepared for operation. Upon the request of petitioner Erlinda, her sister-in-law, Herminda Cruz, who was then Dean of the College of Nursing at the Capitol Medical Center, was allowed to accompany her inside the operating room.

At around 9:30 in the morning, Dr. Hosaka had not yet arrived so Dr. Gutierrez tried to get in touch with him by phone. Thereafter, Dr. Gutierrez informed Cruz that the operation might be delayed due to the late arrival of Dr. Hosaka. In the meantime, the patient, petitioner Erlinda said to Cruz, "*Mindy, inip na inip na ako, ikuha mo ako ng ibang Doctor.*"

By 10:00 in the morning, when Dr. Hosaka was still not around, petitioner Rogelio already wanted to pull out his wife from the operating room. He met Dr. Garcia, who remarked that he was also tired of waiting for Dr. Hosaka. Dr. Hosaka finally arrived at the hospital at around 12:10 in the afternoon, or more than three (3)

hours after the scheduled operation.

Cruz, who was then still inside the operating room, heard about Dr. Hosaka's arrival. While she held the hand of Erlinda, Cruz saw Dr. Gutierrez trying to intubate the patient. Cruz heard Dr. Gutierrez utter: "*ang hirap ma-intubate nito, mali yata ang pagkakapasok. O lumalaki ang tiyan.*" Cruz noticed a bluish discoloration of Erlinda's nailbeds on her left hand. She (Cruz) then heard Dr. Hosaka instruct someone to call Dr. Calderon, another anesthesiologist. When he arrived, Dr. Calderon attempted to intubate the patient. The nailbeds of the patient remained bluish, thus, she was placed in a trendelenburg position – a position where the head of the patient is placed in a position lower than her feet. At this point, Cruz went out of the operating room to express her concern to petitioner Rogelio that Erlinda's operation was not going well.

Cruz quickly rushed back to the operating room and saw that the patient was still in trendelenburg position. At almost 3:00 in the afternoon, she saw Erlinda being wheeled to the Intensive Care Unit (ICU). The doctors explained to petitioner Rogelio that his wife had bronchospasm. Erlinda stayed in the ICU for a month. She was released from the hospital only four months later or on November 15, 1985. Since the ill-fated operation, Erlinda remained in comatose condition until she died on August 3, 1999.^[1]

Petitioners filed with the Regional Trial Court of Quezon City a civil case for damages against private respondents. After due trial, the court a quo rendered judgment in favor of petitioners. Essentially, the trial court found that private respondents were negligent in the performance of their duties to Erlinda. On appeal by private respondents, the Court of Appeals reversed the trial court's decision and directed petitioners to pay their "unpaid medical bills" to private respondents.

Petitioners filed with this Court a petition for review on certiorari. The private respondents were then required to submit their respective comments thereon. On December 29, 1999, this Court promulgated the decision which private respondents now seek to be reconsidered. The dispositive portion of said Decision states:

WHEREFORE, the decision and resolution of the appellate court appealed from are hereby modified so as to award in favor of petitioners, and solidarily against private respondents the following: 1) P1,352,000.00 as actual damages computed as of the date of promulgation of this decision plus a monthly payment of P8,000.00 up to the time that petitioner Erlinda Ramos expires or miraculously survives; 2) P2,000,000.00 as moral damages, 3) P1,500,000.00 as temperate damages; 4) P100,000.00 each exemplary damages and attorney's fees; and 5) the costs of the suit.^[2]

In his Motion for Reconsideration, private respondent Dr. Hosaka submits the following as grounds therefor:

I

THE HONORABLE SUPREME COURT COMMITTED REVERSIBLE ERROR WHEN IT HELD RESPONDENT DR. HOSAKA LIABLE ON THE BASIS OF

THE "CAPTAIN-OF-THE-SHIP" DOCTRINE.

II

THE HONORABLE SUPREME COURT ERRED IN HOLDING RESPONDENT DR. HOSAKA LIABLE DESPITE THE FACT THAT NO NEGLIGENCE CAN BE ATTRIBUTABLE TO HIM.

III

ASSUMING WITHOUT ADMITTING THAT RESPONDENT DR. HOSAKA IS LIABLE, THE HONORABLE SUPREME COURT ERRED IN AWARDED DAMAGES THAT WERE CLEARLY EXCESSIVE AND WITHOUT LEGAL BASIS.^[3]

Private respondent Dr. Gutierrez, for her part, avers that:

- A. THE HONORABLE SUPREME COURT MAY HAVE INADVERTENTLY OVERLOOKED THE FACT THAT THE COURT OF APPEAL'S DECISION DATED 29 MAY 1995 HAD ALREADY BECOME FINAL AND EXECUTORY AS OF 25 JUNE 1995, THEREBY DEPRIVING THIS HONORABLE COURT OF JURISDICTION OVER THE INSTANT PETITION;
- B. THE HONORABLE SUPREME COURT MAY HAVE INADVERTENTLY OVERLOOKED SEVERAL MATERIAL FACTUAL CIRCUMSTANCES WHICH, IF PROPERLY CONSIDERED, WOULD INDUBITABLY LEAD TO NO OTHER CONCLUSION BUT THAT PRIVATE RESPONDENT DOCTORS WERE NOT GUILTY OF ANY NEGLIGENCE IN RESPECT OF THE INSTANT CASE;
 - B.1 RESPONDENT DOCTOR PERFECTA GUTIERREZ HAS SUFFICIENTLY DISCHARGED THE BURDEN OF EVIDENCE BY SUBSTANTIAL PROOF OF HER COMPLIANCE WITH THE STANDARDS OF DUE CARE EXPECTED IN HER RESPECTIVE FIELD OF MEDICAL SPECIALIZATION.
 - B.2 RESPONDENT DOCTOR PERFECTA GUTIERREZ HAS SUFFICIENTLY DISCHARGED THE BURDEN OF EVIDENCE BY SUBSTANTIAL PROOF OF HER HAVING SUCCESSFULLY INTUBATED PATIENT ERLINDA RAMOS
- C. THE SUPREME COURT MAY HAVE INADVERTENTLY PLACED TOO MUCH RELIANCE ON THE TESTIMONY OF PETITIONER'S WITNESS HERMINDA CRUZ, DESPITE THE EXISTENCE OF SEVERAL FACTUAL CIRCUMSTANCES WHICH RENDERS DOUBT ON HER CREDIBILITY
- D. THE SUPREME COURT MAY HAVE INADVERTENTLY DISREGARDED THE EXPERT TESTIMONY OF DR. JAMORA AND DRA. CALDERON
- E. THE HONORABLE SUPREME COURT MAY HAVE INADVERTENTLY AWARDED DAMAGES TO PETITIONERS DESPITE THE FACT THAT

THERE WAS NO NEGLIGENCE ON THE PART OF RESPONDENT DOCTOR.^[4]

Private respondent De Los Santos Medical Center likewise moves for reconsideration on the following grounds:

I

THE HONORABLE COURT ERRED IN GIVING DUE COURSE TO THE INSTANT PETITION AS THE DECISION OF THE HONORABLE COURT OF APPEALS HAD ALREADY BECOME FINAL AND EXECUTORY

II

THE HONORABLE SUPREME COURT ERRED IN FINDING THAT AN EMPLOYER-EMPLOYEE [RELATIONSHIP] EXISTS BETWEEN RESPONDENT DE LOS SANTOS MEDICAL CENTER AND DRS. ORLINO HOSAKA AND PERFECTA GUTIERREZ

III

THE HONORABLE SUPREME COURT ERRED IN FINDING THAT RESPONDENT DE LOS SANTOS MEDICAL CENTER IS SOLIDARILY LIABLE WITH RESPONDENT DOCTORS

IV

THE HONORABLE SUPREME COURT ERRED IN INCREASING THE AWARD OF DAMAGES IN FAVOR OF PETITIONERS.^[5]

In the Resolution of February 21, 2000, this Court denied the motions for reconsideration of private respondents Drs. Hosaka and Gutierrez. They then filed their respective second motions for reconsideration. The Philippine College of Surgeons filed its Petition-in-Intervention contending in the main that this Court erred in holding private respondent Dr. Hosaka liable under the captain of the ship doctrine. According to the intervenor, said doctrine had long been abandoned in the United States in recognition of the developments in modern medical and hospital practice.^[6] The Court noted these pleadings in the Resolution of July 17, 2000.^[7]

On March 19, 2001, the Court heard the oral arguments of the parties, including the intervenor. Also present during the hearing were the *amicii curiae*: Dr. Felipe A. Estrella, Jr., Consultant of the Philippine Charity Sweepstakes, former Director of the Philippine General Hospital and former Secretary of Health; Dr. Iluminada T. Camagay, President of the Philippine Society of Anesthesiologists, Inc. and Professor and Vice-Chair for Research, Department of Anesthesiology, College of Medicine-Philippine General Hospital, University of the Philippines; and Dr. Lydia M. Egay, Professor and Vice-Chair for Academics, Department of Anesthesiology, College of Medicine-Philippine General Hospital, University of the Philippines.

The Court enumerated the issues to be resolved in this case as follows:

1. WHETHER OR NOT DR. ORLINO HOSAKA (SURGEON) IS LIABLE FOR NEGLIGENCE;
2. WHETHER OR NOT DR. PERFECTA GUTIERREZ (ANESTHESIOLOGIST) IS LIABLE FOR NEGLIGENCE; AND
3. WHETHER OR NOT THE HOSPITAL (DELOS SANTOS MEDICAL CENTER) IS LIABLE FOR ANY ACT OF NEGLIGENCE COMMITTED BY THEIR VISITING CONSULTANT SURGEON AND ANESTHESIOLOGIST.

[8]

We shall first resolve the issue pertaining to private respondent Dr. Gutierrez. She maintains that the Court erred in finding her negligent and in holding that it was the faulty intubation which was the proximate cause of Erlinda's comatose condition. The following objective facts allegedly negate a finding of negligence on her part: 1) That the outcome of the procedure was a comatose patient and not a dead one; 2) That the patient had a cardiac arrest; and 3) That the patient was revived from that cardiac arrest.^[9] In effect, Dr. Gutierrez insists that, contrary to the finding of this Court, the intubation she performed on Erlinda was successful.

Unfortunately, Dr. Gutierrez' claim of lack of negligence on her part is belied by the records of the case. It has been sufficiently established that she failed to exercise the standards of care in the administration of anesthesia on a patient. Dr. Egay enlightened the Court on what these standards are:

x x x What are the standards of care that an anesthesiologist should do before we administer anesthesia? The initial step is the preparation of the patient for surgery and this is a pre-operative evaluation because the anesthesiologist is responsible for determining the medical status of the patient, developing the anesthesia plan and acquainting the patient or the responsible adult particularly if we are referring with the patient or to adult patient who may not have, who may have some mental handicaps of the proposed plans. We do pre-operative evaluation because this provides for an opportunity for us to establish identification and personal acquaintance with the patient. It also makes us have an opportunity to alleviate anxiety, explain techniques and risks to the patient, given the patient the choice and establishing consent to proceed with the plan. And lastly, once this has been agreed upon by all parties concerned the ordering of pre-operative medications. And following this line at the end of the evaluation we usually come up on writing, documentation is very important as far as when we train an anesthesiologist we always emphasize this because we need records for our protection, well, records. And it entails having brief summary of patient history and physical findings pertinent to anesthesia, plan, organize as a problem list, the plan anesthesia technique, the plan post operative, pain management if appropriate, special issues for this particular patient. There are needs for special care after surgery and if it so it must be written down there and a request must be made known to proper authorities that such and such care is necessary. And the request for medical evaluation if there is an indication. When we ask for a cardio-pulmonary clearance it is not in fact to tell them if this patient is going to be fit for anesthesia, the decision to give anesthesia rests on the anesthesiologist. What we ask