

SECOND DIVISION

[G.R. No. 128705, June 29, 2001]

CONRADO AGUILAR, SR., PETITIONER, VS. COMMERCIAL SAVINGS BANK AND FERDINAND BORJA, RESPONDENTS.

DECISION

QUISUMBING, J.:

This petition^[1] seeks to annul and set aside the decision dated October 16, 1996, of the Court of Appeals in CA-G.R. CV No. 48793, reversing the decision of the Regional Trial Court of Makati, Branch 59, and dismissing the complaint insofar as respondent Commercial Savings Bank is concerned.

The facts in this case are uncomplicated.

Petitioner Conrado Aguilar, Sr. is the father of Conrado Aguilar, Jr., the victim in a vehicular accident involving a Lancer car registered in the name of respondent bank, but driven by co-respondent Ferdinand G. Borja.

On September 8, 1984, at around 11:15 P.M., Aguilar, Jr. and his companions, among them Nestor Semella, had just finished their snack at the Uncle Watt's Bakery along Zapote-Alabang Road. As they crossed the road, a Lancer with plate no. NNP 349 and driven by Ferdinand Borja, overtook a passenger jeepney. In so doing, the Lancer hit Aguilar and Semella. Aguilar was thrown upwards and smashed against the windshield of the Lancer, which did not stop. Aguilar and Semella were then brought to the Perpetual Help Hospital at Pamplona, Las Piñas, where Aguilar was pronounced dead on arrival.

On July 29, 1985, petitioner filed a complaint for damages against respondents in the Regional Trial Court of Makati, Branch 59. Borja did not file his answer within the reglementary period, hence, he was declared in default by the trial court.

At the trial, respondent bank admitted that the Lancer was registered in its name at the time of the incident. Petitioner's counsel also showed that Borja was negligent in driving the car.

On June 14, 1991, the trial court held defendants (herein respondents) liable for Aguilar's death, in its decision that reads:

Premises considered, judgment is hereby rendered ordering the defendants, jointly and severally, to pay to the plaintiff the following:

1. The amount of P18,900.00 representing actual expenses incurred by the plaintiff;

2. The amount of P50,000.00 representing moral damages;
3. The amount of P100,000.00 representing loss of earning capacity of the deceased victim, Conrado Aguilar, Jr.
4. The sum of P20,000.00 representing attorney's fees; and
5. With costs against the defendants.

Defendant bank's counterclaim is ordered DISMISSED for lack of merit.

On the cross-claim of the defendant bank, the cross-defendant Ferdinand Borja is hereby ordered to pay the cross-claimant Comsavings Bank whatever amount the latter may have paid or is required to pay to the plaintiff by virtue of this decision.

SO ORDERED.^[2]

The trial court declared that Borja's negligence, carelessness and imprudence caused the victim's death. It also found that Borja was an assistant vice president of respondent bank at the time of the incident. It held that under Art. 2180^[3] of the Civil Code, the negligence of the employee is presumed to be that of the employer, whose liability is primary and direct; and that respondent bank failed to exercise due diligence in the selection of its employees.

Respondent bank appealed to the Court of Appeals.

The Court of Appeals found the appeal meritorious. It said that before it can apply Art. 2180 on which private respondent anchored its claim of the bank's negligence, petitioner must first establish that Borja acted on the occasion or by reason of the functions entrusted to him by his employer. The appellate court found no evidence that Borja had acted as respondent bank's assistant vice-president at the time of the mishap. The Court of Appeals reversed the trial court's decision, thus:

WHEREFORE, the appealed decision is reversed only insofar as defendant-appellant bank is concerned. The complaint against it is DISMISSED. No award of damages on said appellant's counterclaim.

No costs.

SO ORDERED.^[4]

Petitioner's motion for reconsideration was denied. Hence, this petition where petitioner avers that:

THE COURT OF APPEALS ERRED IN FINDING THAT RESPONDENT COMSAVINGS IS NOT LIABLE FOR DAMAGES DESPITE THE ESTABLISHED

FACT THAT RESPONDENT COMSAVINGS IS THE REGISTERED OWNER OF THE CAR THAT HIT AND KILLED PETITIONER'S SON WHICH FINDING, COUPLED WITH THE DISMISSAL OF THE COMPLAINT AGAINST RESPONDENT COMSAVINGS, IS CONTRARY TO LAW AND EXISTING JURISPRUDENCE.^[5]

The sole issue is whether or not respondent bank, as the Lancer's registered owner, is liable for damages.

Petitioner states that the Court of Appeals erred when it disregarded the fact that respondent bank was the registered owner of the car and concluded that the bank was not liable since there was "no *iota* of evidence that Borja was performing his assigned task at the time of the incident."^[6] He insists that the existence or absence of employer-employee relationship between the bank and Borja is immaterial in this case for the registered owner of a motor vehicle is legally liable for the damages incurred by third persons for injuries sustained in the operation of said vehicle.

Respondent bank counters that the appellate court's decision is well supported by law and jurisprudence. According to respondent bank, under Article 2180 of the Civil Code, when the negligent employee commits the act outside the actual performance of his assigned tasks or duties, the employer has no vicarious liability. Further, the bank insists that it is not liable since at the time of the accident, Borja was driving the Lancer in his private capacity and was not performing functions in furtherance of the interest of Comsavings Bank. Additionally, according to the bank, Borja already bought the car on installment basis. Hence, at the time of the incident, the bank concluded it was no longer the owner of the car.^[7]

We are, however, unimpressed by respondent bank's disquisition. It goes against established jurisprudence.

In *BA Finance Corporation vs. Court of Appeals*, 215 SCRA 715, we had already held that the registered owner of any vehicle, even if not for public service, is primarily responsible to third persons for deaths, injuries and damages it caused. This is true even if the vehicle is leased to third persons. In that case, petitioner's Isuzu ten-wheeler truck driven by an employee of a certain Lino Castro met an accident. Neither the driver nor Lino Castro was connected to petitioner, for at the time of the incident, the truck was on lease to Rock Component Philippines, Inc. The Court held petitioner liable as the truck's registered owner, despite the absence of employer-employee relationship between petitioner and the driver. Though petitioner in said case had a right of reimbursement against Rock Component for the total amount of its liability, the Court per Melo, .. made clear petitioner remained legally responsible to the victim of vehicular mishap on the basis of jurisprudential dogmas.

As early as *Erezo vs. Japte*, 102 Phil. 103, the Court through Labrador, .. had synthesized the rationale for holding the registered owner of a vehicle directly liable. There we said:

Registration is required not to make said registration the operative act by which ownership in vehicles is transferred, as in land registration cases,