351 Phil. 219

FIRST DIVISION

[G.R. No. 118889, March 23, 1998]

FGU INSURANCE CORPORATION, PETITIONER, VS., COURT OF APPEALS, FILCAR TRANSPORT, INC., AND FORTUNE INSURANCE CORPORATION, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

For damages suffered by a third party, may an action based on *quasi-delict* prosper against a rent-a-car company and, consequently, its insurer for fault or negligence of the car lessee in driving the rented vehicle?

This was a two-car collision at dawn. At around 3 o'clock of 21 April 1987, two (2) vehicles, both Mitsubishi Colt Lancers, cruising northward along Epifanio de los Santos Avenue, Mandaluyong City, figured in a traffic accident. The car bearing Plate No. PDG 435 owned by Lydia F. Soriano was being driven at the outer lane of the highway by Benjamin Jacildone, while the other car, with Plate No. PCT 792, owned by respondent FILCAR Transport, Inc. (FILCAR), and driven by Peter Dahl-Jensen as lessee, was at the center lane, left of the other vehicle. Upon approaching the corner of Pioneer Street, the car owned by FILCAR swerved to the right hitting the left side of the car of Soriano. At that time Dahl-Jensen, a Danish tourist, did not possess a Philippine driver's license.[1]

As a consequence, petitioner FGU Insurance Corporation, in view of its insurance contract with Soriano, paid the latter ₱25,382.20. By way of subrogation,[2] it sued Dahl-Jensen and respondent FILCAR as well as respondent Fortune Insurance Corporation (FORTUNE) as insurer of FILCAR for *quasi-delict* before the Regional Trial Court of Makati City.

Unfortunately, summons was not served on Dahl-Jensen since he was no longer staying at his given address; in fact, upon motion of petitioner, he was dropped from the complaint.

On 30 July 1991 the trial court dismissed the case for failure of petitioner to substantiate its claim of subrogation.[3]

On 31 January 1995 respondent Court of Appeals affirmed the ruling of the trial court although based on another ground, i.e., only the fault or negligence of Dahl-Jensen was sufficiently proved but not that of respondent FILCAR.[4] In other words, petitioner failed to establish its cause of action for sum of money based on *quasi-delict.*

In this appeal, petitioner insists that respondents are liable on the strength of the ruling in MYC-Agro-Industrial Corporation v. Vda. de Caldo[5] that the registered owner of a vehicle is liable for damages suffered by third persons although the vehicle is leased to another.

We find no reversible error committed by respondent court in upholding the dismissal of petitioner's complaint. The pertinent provision is Art. 2176 of the Civil Code which states: "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 x x x x"

To sustain a claim based thereon, the following requisites must concur: (a) damage suffered by the plaintiff; (b) fault or negligence of the defendant; and, (c) connection of cause and effect between the fault or negligence of the defendant and the damage incurred by the plaintiff.[6]

We agree with respondent court that petitioner failed to prove the existence of the second requisite, i.e., fault or negligence of defendant FILCAR, because only the fault or negligence of Dahl-Jensen was sufficiently established, not that of FILCAR. It should be noted that the damage caused on the vehicle of Soriano was brought about by the circumstance that Dahl-Jensen swerved to the right while the vehicle that he was driving was at the center lane. It is plain that the negligence was solely attributable to Dahl-Jensen thus making the damage suffered by the other vehicle his personal liability. Respondent FILCAR did not have any participation therein.

Article 2180 of the same Code which deals also with *quasi-delict* provides:

> 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.
>
> The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.
>
> Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.
>
> 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.
>
> Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.
>
> The State is responsible in like manner when it acts through a special agent; but not when the damage has been caused by the official to whom the task done properly pertains, in which case what is provided in article 2176 shall be applicable.
>
> Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody.
>
> The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage.

The liability imposed by Art. 2180 arises by virtue of a presumption *juris tantum* of negligence on the part of the persons made responsible thereunder, derived from their failure to exercise due care and vigilance over the acts of subordinates to prevent them from causing damage.[7] Yet, as correctly observed by respondent court, Art. 2180 is hardly applicable because none of the circumstances mentioned therein obtains in the case under consideration. Respondent FILCAR being engaged in a rent-a-car business was only the owner of the car leased to Dahl-Jensen. As such, there was no *vinculum juris* between them as employer and employee. Respondent FILCAR cannot in any way be responsible for the negligent act of Dahl-Jensen, the former not being an employer of the latter.