

## **EIGHTEENTH DIVISION**

**[ CA-G.R. CV. NO. 01542, January 30, 2015 ]**

**ROGELIO VILLANUEVA AND PLEBIA T. VILLANUEVA,  
PLAINTIFFS-APPELLEES, VS. ARTHUR DY GUANI, DEFENDANT,  
CESAR BABA, DEFENDANT-APPELLANT.**

### **D E C I S I O N**

**INGLES, G. T., J.:**

This is an appeal from the Decision<sup>[1]</sup> dated December 29, 2005 rendered by the Regional Trial Court of Cebu City, Branch 15 in Civil Case No. CEB-18511.

#### **Factual and Procedural Antecedents**

On August 22, 1995, at about 11:00 in the morning, seventeen-year old Jim Tecson Villanueva, youngest child of plaintiffs-appellees Rogelio and Plebia Villanueva, went to St. Paul Bakery in Barangay Pitalo, San Fernando, Cebu to buy bread.

At about the same time, Estanislao Manlosa, who was then at the vicinity of the said St. Paul Bakery, saw a white Toyota Corolla with plate number GDW-677 zigzagging its way from Cebu City going southbound until it smashed through the bakeshop hitting Jim Tecson Villanueva. Manlosa would later learn that the driver of the white Toyota Corolla was one Cesar Baba after the latter surrendered at the San Fernando Police Station.

Jim's father, the plaintiff-appellee Rogelio Villanueva, immediately went to the site upon hearing of the road mishap and saw his son being carried by two men towards a vehicle. Rogelio and the two men then brought Jim to a hospital in Minglanilla but due to its inadequate facilities, they were told to proceed to Southern Islands Hospital (now Vicente Sotto Memorial Medical Center) in Cebu City. However, when they reached Southern Islands, Jim was pronounced dead on arrival.

Meanwhile, SPO1 Thaddeus Manlunas Gorgonia, traffic officer of the San Fernando Police proceeded to the scene of the accident in Barangay Pitalo, after he was informed by an unidentified concerned citizen about the road mishap. When he reached the location, SPO1 Gorgonia was unable to speak with any of the witnesses to the road accident, except for the sales girl of St. Paul Bakery – a certain "Rosini". The driver was no longer at the scene of the road mishap, but, upon his return to the police station, SPO1 Gorgonia met one Cesar Baba, who claimed to be the driver of the white Toyota Corolla involved in the road mishap. As per his investigation, SPO1 Gorgonia learned from defendant-appellant Baba that the road mishap happened when someone crossed the road suddenly hesitated forcing the driver, Baba, to maneuver to the left side of the road and in the process, plow through St. Paul Bakery and hit Jim Villanueva. SPO1 Gorgonia entered the details of his

investigation into the San Fernando Police Blotter but did not sign the same, as per the station's standard operating procedure.

On March 13, 1996 the plaintiffs-appellees filed a complaint for damages and attorneys fees against defendant Arthur Dy Guani, the registered owner of the white Toyota Corolla bearing Plate No. GDW-677 and the defendant-appellant Cesar Baba.

In their complaint<sup>[2]</sup>, the spouses Villanueva alleged, that:

1. They are the parents of the late Jim Tecson Villanueva who died on August 22, 1995;
2. Defendant Arthur Dy Guano is the registered owner of a white Toyota Corolla bearing Plate No. GDW-677, which is a public utility vehicle for hire and operating as such on August 22, 1995;
3. On August 22, 1995, at around 11:00 in the morning, said automobile was driven by defendant Guano's authorized driver, the defendant-appellant Cesar Baba, who was driving said car within the scope of his authority, when Baba hit and ran over the late Jim Tecson Villanueva after the former drove the said vehicle in a most reckless and imprudent manner, in wanton disregard of traffic rules and regulations, at a very fast clip without observing any reasonable precaution;
4. The negligent act of the defendant-driver shows that the registered owner of the motor vehicle, the defendant Arthur Dy Guani, did not observe the extraordinary diligence required of an employer in the selection of his employee and as such, makes him solidarily liable with defendant-appellant Baba to indemnify the heirs of the deceased Jim Tecson Villanueva;
5. After the death and during the wake and burial of the plaintiffs' deceased son, the defendant Guani did not extend assistance expected from an owner of a vehicle whose driver was responsible for the death of the plaintiffs' son;
6. By reason of the untimely death of their youngest child, the plaintiffs-appellees suffered from serious anxiety, sleepless nights, and unbearable nightmare and incurred actual expenses for the wake and burial of their son as well as incurred expenses in the engagement of counsel

The plaintiffs-appellees prayed that the defendants Guani and Baba be made to pay plaintiffs jointly and severally the amount of One Million Pesos (P1,000,000.00) in moral damages; Fifty Thousand Pesos (P50,000.00) in actual damages; and exemplary damages, attorney's fees, and litigation expenses.

In his Special and Affirmative Defenses<sup>[3]</sup>, defendant Guani denied any liability for the death of Jim Tecson Villanueva since Baba is not an employee of Guani-Rent-A Car -- the car rental service owned by defendant Guani -- and thus, was not under the supervision and control of the latter. Defendant Guani alleged that on August 22, 1995, defendant-appellant Cesar Baba leased or rented a car from Guani Rent-A-Car. Baba and Guani executed a Lease Contract which provides that Baba will be the one to drive the rented car and that the lessee shall be responsible for all traffic violations. Defendant Guani further alleged that he extended financial assistance to

the plaintiffs-appellees by paying St. Anne Funeral Parlor in the sum of P10,000.00. In his Cross Claim, defendant Guani prayed for reimbursement and indemnification from defendant-appellant Baba for whatever monies adjudged against him by the Court in favor of the plaintiffs.

Defendant-appellant Baba likewise denied liability stating that although he was the one who rented the car from Guani, he was not the one driving the car when the road mishap occurred. In his Special and Affirmative Defenses<sup>[4]</sup>, he alleged that on August 22, 1995, he and three other new acquaintances hired a vehicle from Guani-Rent-A-Car for their intended travel to Barili in Southern Cebu. Baba claims that when the accident happened, he was seated in the front passenger seat of the car driven by an American named Alan whom he just met the day before.

The trial court conducted pre-trial conference<sup>[5]</sup> on April 12, 1999. Thereafter, trial on the merits ensued.

Plaintiff-appellee presented the testimonies of the following witnesses:

- 1) Estanislao Manlosa, who was present when the deceased Jim Villanueva was hit by the car supposedly driven by Cesar Baba in Barangay Pitalo, San Fernando, Cebu;
- 2) SPO1 Thaddeus Manlunas Gorgonia, the traffic officer of San Fernando, Cebu, who investigated the road mishap that killed Jim Tecson Villanueva;
- 3) Plaintiffs spouses Rogelio and Plebia Villanueva who testified on the damages they suffered due to the loss of their youngest child;
- 4) Atty. Delano Tecson, the plaintiffs-appellees' former counsel, who had custody over but lost the various receipts covering the actual expenses incurred by the plaintiffs-appellees for the wake and burial of the deceased Jim Tecson Villanueva that was entrusted to him by the plaintiffs-appellees – Atty. Tecson's former clients.

Plaintiffs-appellees rested their case without offering their documentary exhibits.

The defendant-appellant Cesar Baba presented the plaintiff-appellee, Rogelio Villanueva as hostile witness, who admitted having filed against Baba, Criminal Case No. 2973 for Obstruction of Justice. The defendant-appellant Baba presented in evidence an Affidavit Complaint (Exhibit 1 - "Baba")<sup>[6]</sup> executed by plaintiff-Rogelio Baba in the aforementioned criminal case, which states:

COMPLAINT-AFFIDAVIT  
For Viol. Of Sec. 1 (B) and © of PD 1829

I, ROGELIO VILLANUEVA, of legal age, married and a resident of Pitalo, San Fernando, Cebu, after being sworn to in accordance with law hereby depose and say:

X x x

8) That it was BABA who drove the vehicle while they were still in Cebu City and after passing Mananga Bridge, in Talisay, BABA allowed POST who was not a licensed driver, to drive the vehicle by himself;

9) That when they reached Pitalo, San Fernando, Cebu ALLAIN POST, who was not acquainted with the road in Pitalo, and is not a licensed driver, hit and bumped several persons including my son, JIM T. VILLANUEVA, who instantly died as a result of the fatal injuries he sustained;

10) That BABA knowing fully well that he was the one driving the vehicle when it hit and killed my said son, knowingly, deliberately, and maliciously mislead the police authorities of San Fernando, Cebu by voluntarily surrendering himself to the San Fernando Police Station, and falsely claiming to be the driver of the erring vehicle, when in truth and in fact he was not, a copy of the pertinent extract from the Police Blotter of the San Fernando Police Station is hereto attached and marked as Annex "A", forming an integral part hereof; That BABA's willful and malicious misrepresentation facilitated the escape of the erring driver, and American national and a tourist, thus obstructing and frustrating the apprehension and prosecution of the said criminal offender, ALLAIN DONAN POST;

11) That after the incident, POST immediately returned home to the United States of America, a free man courtesy of the malicious misrepresentation of BABA;

12) The foregoing facts and circumstances were admitted by BABA under oath when he was presented as a witness in Criminal Case No. 2652, entitled People of the Philippines vs. Cesar Baba, for Homicide, Multiple Physical Injuries and Damage to Property Through Reckless Imprudence.

X x x"<sup>[7]</sup>

Meanwhile, on July 7, 2003, the defendant Guani no longer presented his intended hostile witness, his co-defendant Cesar Baba, after the latter admitted the existence and due execution of a "Self-Drive Contract Customer Information Sheet; the Self-Drive Rates; and the Extract from the Police Blotter of San Fernando Police detailing the results of the investigation over the subject incident that killed Jim Tecson Villanueva."<sup>[8]</sup> However, these pieces of evidence were no longer formally offered in court, since on May 18, 2004, the defendant Guani and the plaintiffs-appellees agreed to amicably settle this case and submitted a Compromise Agreement<sup>[9]</sup>, which was duly approved by the trial court thus ending the controversy between the plaintiffs-appellees herein and the defendant Guani.

### **Findings of the Regional Trial Court**

On December 29, 2005, the trial court rendered its decision finding the appellant Baba liable to pay the plaintiffs damages, attorney's fees and litigation costs. The *ratio decidendi* and the dispositive portion of the assailed decision are as follows:

"Based on the testimonial and documentary evidence presented by the parties it was duly proven that plaintiffs have a cause of action defendant Cesar A. Baba, he being the driver who hit and bumped the victim, Jim Tecson Villanueva causing his death. Defendant Arthur Dy Guani proved that his co-defendant, Cesar A. Baba was not his employee but a lessee of a motor vehicle of his rent-a-car business on 22 August 1995. Since defendant Baba was not an authorized driver or employee of co-defendant Guani, there is no need to discuss whether or not Guani complied with the degree of diligence required by law in the selection and supervision of co-accused Baba to prevent damage.

Witness Estanislao Manlosa positively identified defendant Cesar A. Baba as the one driving the vehicle when the accident took place. This testimony was further affirmed by SPO1 Thaddeus Manlunas Gorgonia who investigated the vehicular incident. Defendant Cesar Baba's act of driving the vehicle in a reckless manner causing the instantaneous death of Jim Tecson Villanueva is the proximate cause of the death of the latter. Therefore, he should be made liable for the death of Jim Tecson Villanueva for his negligent act of irresponsible driving.

A person is responsible for all the natural consequences of his act. Article 20 of the New Civil Code provides: *'Every person who, contrary to law, willfully or negligently causes damage to another, shall indemnify the latter for the same.'*

Article 2176 of the same code further provides: *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."*

To sustain a claim based on quasi-delict, 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" (FGU Insurance Corporation vs. Court of Appeals, 287 SCRA 718).

WHEREFORE, finding the preponderance of evidence to be in favor of the PLAINTIFFS and against defendant Cesar A. Baba, judgment is rendered in their favor and the Court hereby orders defendant, Cesar A. Baba:

1. To pay plaintiffs the sum of Eighty Four Thousand (P=84,000.00) Pesos as actual expenses;
2. To pay plaintiffs the sum of Ten Thousand (P=20,000.00) (sic) Pesos as attorney's fees and another sum of Fifteen Thousand (P=15,000.00) Pesos as litigation expenses;
3. To pay plaintiffs the sum of Three Hundred Thousand (P=300,000.00) Pesos as moral damages and to pay the costs of this suit.

SO ORDERED."<sup>[10]</sup>