

NINETEENTH DIVISION

[CA G.R. CEB-CV NO. 01397, January 26, 2015]

REYNALDO LIZADA, SR., AND SANDRA BAQUILAR, PLAINTIFFS-APPELLEES, VS. JAY ISAGAN AND INOCENCIO DELA CRUZ Y BANDIES, DEFENDANTS-APPELLANTS.

D E C I S I O N

LOPEZ, J.:

Before the Court is the Appeal^[1] assailing the Decision^[2] dated March 9, 2006 of Branch 15, Regional Trial Court, Roxas City (hereafter, the “court *a quo*”) in Civil Case No. V-058-06-2002, finding Jay Isagan and Inocencio Dela Cruz (hereafter, “defendants-appellants”) liable for Quasi-Delict.

The facts of the case are as follows:

Reynaldo Lizada, Sr. (hereafter, “Lizada”) and Sandra Baquilar filed the Complaint,^[3] for Quasi-Delict before the court *a quo*. Named defendants were Jay Isagan (hereafter, “Isagan”) and Inocencio Dela Cruz (hereafter, “Dela Cruz”).

The Complaint alleged that on May 27, 2002, at about noontime, Fernando Baquilar (hereafter, “Baquilar”) was driving the Toyota Hi-Ace Van (hereafter, “van”) of Lizada to transport passengers from Caticlan, Malay, Aklan to Iloilo City. Upon reaching the National Highway of Barangay Aglalana, Dumarao, Capiz, Baquilar slowed down the van as the passenger jeepney (hereafter, “jeepney”) ahead of it stopped near the shoulder of the right lane of the road to fix its cargoes. With having enough clearance in the road to overtake, Baquilar maneuvered the van to overtake the parked jeepney. When the van had almost overtaken the passenger jeep, the bus driven by defendant-appellant Dela Cruz and owned by Isagan coming from the opposite direction was running at high speed. Baquilar flashed his headlight seeking clearance to proceed, and after passing the passenger jeep, he swerved towards the middle of the right lane of the highway to completely place the van at its rightful lane. The bus lost control which swerved to the rightful lane of the van and bumped the van at the middle portion of the left side with its (bus) front fender, pushing the van towards the jeepney near the shoulder of the right lane of the highway. As a result, Baquilar died on the spot and five (5) passengers of the van were pronounced dead on arrival at the Don Valerio Palmares Memorial Hospital in Passi City. The other passengers were injured and the total hospital bills assumed by Lizada was P615,589.64. The funeral expenses for the death of Baquilar also reached P97,000.00.

The Complaint prayed for: reimbursement to plaintiff-appellee Lizada for hospital expenses of the passengers (P615,589.54); funeral expenses of Baquilar (P47,000.00); repair of the van (P200,000.00); loss of income of the van at P1,000.00 a day; reimbursement to Sandra Baquilar for funeral expenses

(P50,000.00); moral damages (P200,000.00); attorney's fees (P100,000.00); and costs.

Defendants-appellants averred in their Answer^[4] that on May 27, 2002, at about 1:25 o'clock in the afternoon, the bus driven by Dela Cruz and owned by Isagan was cruising at forty (40) kilometers per hour and had just passed the Iloilo-Capiz boundary. Dela Cruz saw the van driven by Baquilar about 100 meters away occupying the center lane. Dela Cruz flashed his headlight to warn the van of an incoming bus and slowed down the bus. The van went back to its own lane which had a jeepney parked in its front. Upon seeing the van had returned to its lane, Dela Cruz continued to drive the bus. The van suddenly overtook the parked jeepney, went out of its lane and came towards the bus. Dela Cruz tried to apply brakes but it was too late. Defendants-appellants claimed that the fault is attributable to Baquilar, as the sketch plan prepared by the Dumarao police showed that the point of impact was within the lane of the bus driven by Dela Cruz, as the van encroached upon the lane of the bus. Isagan insisted that being the employer of Dela Cruz, he exercised the highest diligence in choosing and supervising his employees.

The Answer prayed for: moral damages (P50,000.00); attorney's fees (P10,000.00, and P1,000.00 per appearance); and litigation expenses (P50,000.00).

Trial proceeded.

On March 9, 2006, the court *a quo* issued the assailed Decision^[5] in favor of plaintiffs-appellees and ordered both Dela Cruz and Isagan to reimburse Lizada and Baquilar for actual damages, and pay them both moral and exemplary damages, attorney's fees, litigation expense, and costs. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, Judgment is hereby rendered in favor of the plaintiffs, ordering the defendants jointly and severally:

I. Plaintiff Reynaldo Lizada, Sr.:

1. P1,192,929.45 as reimbursement for hospital expenses assumed at the Iloilo Doctor's Hospital, Iloilo City;
2. P15,000.00 as reimbursement for funeral services to Fernando Baquilar paid by plaintiff Lizada, Sr. to the Porras Funeral Homes;
3. P32,000.00 reimbursement for funeral services extended to Fernando Baquilar paid by plaintiff Lizada, Sr. to the Funeraria Dicon;
4. P200,000.00 for the repair of the Toyota Hi-Ace Van;
5. P365,000.00 representing loss of income of the Toyota Hi-Ace Van at P1,000.00 per day for one year from May 27, 2002.
6. P200,000.00 as moral damages.

II. For Sandra Baquilar:

1. P200,000.00 as moral damages.

III. For both plaintiffs:

1. P100,000.00 as attorney's fees
2. Costs of the suit.

SO ORDERED.

Hence, this Appeal, defendants-appellants making the following assignment of errors:

THE REGIONAL TRIAL COURT COMMITTED THE FOLLOWING ERRORS, AS FOLLOWS:

I

IN FINDING DEFENDANT INOCENCIO DELA CRUZ NEGLIGENT AND SUCH NEGLIGENCE WAS THE MAIN CAUSE OF THE VEHICULAR ACCIDENT ON MAY 27, 2002.

II

IN FINDING THAT DEFENDANT JAY ISAGAN FAILED TO EXERCISE DUE DILIGENCE OF A GOOD FATHER OF A FAMILY IN THE SELECTION AND SUPERVISION OF HIS EMPLOYEE.

III

THE HONORABLE LOWER COURT ERRED IN ORDERING THE DEFENDANTS TO PAY JOINTLY AND SEVERALLY PLAINTIFF REYNALDO LIZADA, SR. P1,192,929.45 AS REIMBURSEMENT FOR HOSPITAL EXPENSES ASSUMED AT THE ILOILO DOCTOR'S HOSPITAL, ILOILO CITY; P15,000.00 AS REIMBURSEMENT FOR FUNERAL SERVICES TO FERNANDO BAQUILAR PAID BY PLAINTIFF LIZADA, SR. TO THE PORRAS FUNERAL HOMES; P32,000.00 REIMBURSEMENT FOR FUNERAL SERVICES EXTENDED TO FERNANDO BAQUILAR PAID BY PLAINTIFF LIZADA SR. TO THE FUNERARIA DICON; P200,000.00 FOR THE REPAIR OF THE TOYOTA HI-ACE VAN; P365,000.00 REPRESENTING LOSS OF INCOME OF THE TOYOTA HI-ACE VAN AT P1,000.00 PER DAY FOR ONE YEAR FROM MAY 27, 2002; P200,000.00 AS MORAL DAMAGES; FOR BOTH PLAINTIFFS P100,000.00 AS ATTORNEY'S FEES.

IV

THE HONORABLE COURT DID NOT CONSIDER ALL THE EVIDENCE PRESENTED BY THE DEFENDANTS-APPELLANTS.

Defendants-appellants argue that they should not be held liable for damages as it was the van which hit the bus as shown by the sketch of SPO2 Eddie Unato, which the latter testified to, as the point of impact of the two vehicles happened at the lane of the bus. The police blotter report also reflected that the cause of the accident was the sudden overtaking made by the van. Moreover, defendants-appellants claim that even the Office of the Provincial Prosecutor of Capiz dismissed the criminal case against Dela Cruz after finding that the accident was attributable to the negligence of Baquilar. And since Dela Cruz was not held liable, Isagan, being the employer should also not be held liable.

The heirs of Lizada^[6] and Baquilar, on the other hand, claim that the court *a quo* was correct in its finding that the bus driven by Dela Cruz was the proximate cause of the collision of the vehicles. They insist that it is impossible for the van to drag

the bus which was running downhill and it was the bus which was on the wrong lane when the collision happened. Moreover, plaintiffs-appellees posit that Isagan should be held severally liable with Dela Cruz as he failed to exercise the diligence required of him in the selection and supervision of his employee Dela Cruz. They assert that the court *a quo* is correct in its findings of fact as it considered the testimony of the eyewitness to the incident and the photographs taken at the scene.

The Ruling of the Court

Negligence is defined as the failure to observe for the protection of the interests of another person that degree of care, precaution, and vigilance which the circumstances justly demand, whereby such other person suffers injury.^[7]

The test by which to determine the existence or negligence in a particular case may be stated as follows: Did the defendant in doing the alleged negligent act use that reasonable care and caution which an ordinary person would have used in the same situation? If not, then he is guilty of negligence. The law here in effect adopts the standard supposed to be supplied by the imaginary conduct of the discreet paterfamilias of the Roman law. The existence of negligence in a given case is not determined by reference to the personal judgment of the actor in the situation before him. The law considers what would be reckless, blameworthy, or negligent in the man of ordinary intelligence and prudence and determines liability by that. ^[8]

Proximate cause is determined by the facts of the case. It is that cause which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred.^[9]

After going over the records of this case, the Court is unable to sustain the findings of fact and conclusion reached by the court *a quo*. The Court finds that it was the negligence of Baquilar, the driver of the van as the proximate cause of the accident.

It is worth noting that photographs are in the nature of physical evidence-- a mute but eloquent manifestation of truth ranking high in the hierarchy of trustworthy evidence. When duly verified and shown by extrinsic evidence to be faithful representations of the subject as of the time in question, they are, in the discretion of the trial court, admissible in evidence as aids in arriving at an understanding of the evidence, the situation or condition of objects or premises, or the circumstances of an accident.^[10] In this case, We give credence to the photographs taken by Alexander Azarcon as the latter testified that the pictures were faithful representations of the circumstances immediately after the accident.

It is a fact that the bus was going towards the direction of Kalibo, while the jeepney and the van was going towards Iloilo prior to the incident. However, after the incident the photographs showed that the van stopped in a perpendicular position to the road, with its front in the right lane while the end of its tail was in the middle of the road. The bus' front portion was attached to where the door of the van's driver and the passenger side behind the driver.

The evidence depicted that the van driven by Baquilar swerved and encroached on the lane of the bus to overtake the parked jeepney. Before the van was able to return to its proper lane, the bus driver in a last minute effort to avoid a head-on