5 Phil. 663

[G.R. No. 2789. February 27, 1906]

WILLIAM JOHNSON, PLAINTIFF AND APPELLEE, VS. CIRILO DAVID, DEFENDANT AND APPELLANT.

D E C I S I O N

JOHNSON, J.:

This was an action commenced in the court of the justice of the peace of the city of Manila, by the plaintiff, to recover damages of the defendant resulting from the alleged negligence of the defendant. After hearing the evidence adduced during the trial of said cause, the said justice rendered a decision in favor of the plaintiff for the sum of $175, gold. From this decision the defendant appealed to the Court of First Instance of the city of Manila. The cause was tried *de novo* in the Court of First Instance, and after hearing the evidence in said cause, the judge of that court rendered a decision in favor of the plaintiff for the sum of P300, Philippine currency. This decision was rendered on the 15th day of July, 1904. To this decision the defendant excepted and on the 16th day of July, 1904, presented a motion for a new trial, basing said motion upon the fact that the judgment was contrary to law.

It appears from the records that the said decision rendered by the judge of the Court of First Instance of the city of Manila was rendered upon a default in the appearance of the defendant. Later, upon the 11th day of October, 1904, the said judge vacated the judgment rendered upon the 15th day of July, 1904, and ordered a new trial. The record does not disclose whether or not an exception was taken to this order of the judge annulling said sentence.

The new trial so ordered was celebrated upon the 25th of January, 1905. At the commencement of this new trial in the Court ‘of First Instance the attorneys for the defendant filed a motion to strike out and declare null and void said order of the court of the 11th of October, 1904, for the reason that said order was made without authority for the same and without a hearing by or notice to the said defendant; that said order was made

without legal or sufficient reasons and without authority of law ; that said order was made at a subsequent term of court from that in which the said judgment was rendered. This motion was overruled. No exception having been made to the order of the judge annulling the sentence of the 15th of July, 1904, in due time, the same can not be considered here. After hearing the evidence adduced during the second trial in the Court of First Instance, the judge rendered a decision in favor of the plaintiff and against the defendant for the sum of P250, Philippine currency, and for the costs. This decision was rendered on the 22d of January, 1905. To this decision the defendant excepted and on the 5th day of February of the same year presented a motion for a new trial basing the same on the ground that the decision was contrary to law and the evidence adduced during the trial of said cause. The motion for a new trial was denied. The defendant then presented his bill of exceptions.

The following facts were proven during the second trial in the Court of First Instance:

On the 13th of November, 1903, the plaintiff was riding a bicycle and was passing over the bridge in front of the Binondo Church in the city of Manila and while proceeding at a slow rate of speed down the incline from the bridge toward Calle San Fernando and being on the north side of said bridge he was run into by defendant’s carriage drawn by one horse and driven by the *cochero* of the defendant; that the said *cochero* was driving the said horse faster than was reasonable or allowable; that the plaintiff rung the bell of his bicycle to attract the attention of the defendant’s cotihero; that the plaintiff was unable to stop for the reason that other carriages were coming behind him on the incline of the approach to said bridge; that the plaintiff was riding on his bicycle on the left path of the bridge, as required by the ordinance; that defendant’s *cochero* made a detour with the horse and carriage and attempted to approach said bridge upon the left side in a diagonal direction; that reasonable care was not taken by defendant’s cochcro in driving or approaching the said bridge, by reason of which lack of care he collided with the plaintiff and threw the latter to the ground; that defendant’s *cochero* was negligent and careless in driving defendant’s vehicle, that this caused the collision, and as the result of said collision plaintiff’s bicycle was greatly damaged and practically destroyed, being run over by the horse and carriage after being dashed to the ground; that the plaintiff was thrown upon his head and shoulders upon the ground; that one shoulder was injured to such an extent that he was unable to perform manual labor for one month thereafter; that the plaintiff was, at the time, employed in the Quartermaster’s Department of the United States Army, receiving a salary of P90, United States currency, per month, and that he was deprived of this salary during the period that he was unable to perform labor; that the damage done to the bicycle equaled the sum of $35, United States currency; that the defendant was not present in the carriage at the time

the accident happened.

The question presented by these facts is, Is the owner of a carriage driven by his *cochero*, liable for injuries growing out of the negligence of said *cochero*, in the absence of such owner?

No evidence was adduced during the trial of said cause to show that the defendant had been negligent in the employment of the *cochero* or that he had any knowledge that such *cochero* was incompetent or of the general negligent character of said *cochero*, if such existed. Can the negligent acts of a *cochero* in driving the carriage of his master be attributed to the owner of the horse and carriage, in the absence of such owner and master?

Chapter 2 of title 16, book 4, of the Civil Code contains the provisions under which persons shall be liable for acts of negligence, which negligence does not amount to a crime. Article 1902 of said chapter provides that "a person who by an act or omission causes damages to another when there is fault or negligence, shall be obliged to repair the damage so done." This article, it will be seen, relates to the liability of a person who himself is guilty of negligence. Articles 1903 to 1910 of the same chapter attempt to enumerate the conditions under which a person is liable not for his own negligence, but for injuries occasioned by the negligence of others.

It would seem, from an examination of these various provisions, that the obligation to respond for the negligent acts of another was limited to the particular cases mentioned; in other words, we are of the opinion and so hold that it was the intention of the legislature in enacting said chapter 2 to enumerate all of the persons for whose negligent acts third persons are responsible. Article 1902 provides when a person himself is liable for negligence. Articles 1903, 1904, 1905, 1906, 1907, 1908, and 1910 provide when a person shall be liable for injuries caused, not by his own negligence but by the negligence of other persons or things.

Article 1905 provides that the possessor of an animal, or the one who uses the same, is liable for the damages it may cause, even when said animal shall escape from him or stray. No complaint, however, is made here that the injuries caused by the negligence of the oochero were caused by the animal belonging to the defendant. This section might, under certain conditions, render either the owner of the animal or the one using it liable for damages. These sections do not include a liability on the part of the plaintiff for injuries resulting from acts of negligence such as are complained of in the present cause. The

defendant not having contributed in any way to the injury complained of, he is in no wise responsible for the same. The judgment of the lower court is therefore hereby reversed. After the expiration of twenty days let judgment be entered in accordance herewith, and the case remanded to the lower court for execution. So ordered.

A*rellano, C, J., Torres, Mapa, Carson,* and *Willard, JJ.,* concur.

Date created: April 29, 2014