

**DIWATA VARGAS, PETITIONER, VS. SALVADOR LANGCAY, ET AL.,
RESPONDENTS.***G.R. No. L-17459. September 29, 1962*

Ponente: LABRADOR, J.

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This is a petition for review of the decision of the Court of Appeals finding petitioner subsidiarily liable for damages under article 103 of the Revised Penal Code.

At about 8:00 o'clock in the morning of June 5, 1955, at Rizal Avenue, Manila, Corazon and Helen Langcay, sisters, were hit and injured by a jeepney bearing plate No. AC-4859-Quezon City-1955, then driven by Ramon B. Aguas. Criminally charged with physical injuries, the said Ramon B. Aguas was finally sentenced by the Court of Appeals, in CA-G.R. No. L-7900-R, to 3 months and 6 days of arresto mayor for serious and slight physical injuries through reckless imprudence, caused to Corazon and Helen Langcay, "without pronouncement with respect to the indemnity due to the aggrieved parties, because the action therefor had been reserved."

Since the records of the Public Service Commission and the Motor Vehicles Office showed that Diwata Vargas was, at the time of the accident, the owner and operator of the jeepney in question, the parents of Corazon and Helen sued Diwata Vargas and the driver for damages. In spite of the defense of appellant Diwata Vargas that prior to the accident, precisely on August 17, 1953, she had sold the vehicle to Jose B. Aguas (father of the driver), so that at the time of the accident she was no longer the owner of the jeepney, and that, further, the Public Service Commission, on October 27, 1953, cancelled the certificate of public convenience issued in her name, the defendants Diwata Vargas and Ramon B. Aguas were jointly and severally sentenced to pay damages and attorney's fees by the Court of First Instance of Manila. Diwata Vargas appealed to the Court of Appeals which affirmed, with modifications, the lower court's decision.

Pertinent parts of the Appeals Court decision are hereby reproduced for a clearer understanding of the issue involved in this appeal:

"The order of cancellation and revocation of appellant's certificate of public convenience, dated October 27, 1953 (exh. 4-D) does not relieve her of the liability established by the above quoted legal provisions as clearly and positively construed by the highest tribunal of the land. This order was issued *motu proprio* by the Commission in view of appellant's failure to pay the P15.00 supervision and regulation fee and its 50% surcharge, and not for the purpose of transferring the same certificate to Jose B. Aguas. A copy of the above mentioned order was furnished appellant, so that she cannot profess ignorance of what she termed the 'anomalous operation' of the jeepney she sold to Jose B. Aguas without the required authorization or approval of the Public Service Commission. Appellant's failure to stop the operation of the vehicle in question and to surrender to the Motor Vehicles Office the corresponding AC plates, as ordered by exhibit 4-D, Vargas constitutes a violation of the Revised Motor Vehicle Law and Commonwealth Act No. 146, which violation makes her liability and responsibility clearer and more inescapable."

* * * * *

"* * * Appellant's liability stems from and is a form of punishment for her failure to comply with section 20 (g) of Commonwealth Act 146 and with 5 of Act 3992. * * *"

* * * * *

"There is no question that appellees Corazon and Helen Langcay were not passengers of the jeepney, the reckless operation of which resulted in the injuries. Therefore, the direct and immediate liability of a common carrier as provided for by the Civil Code cannot be ascribed to appellant. Accordingly, her liability should be based on article 103 of the Revised Penal Code. * * * Therefore, appellant's responsibility is merely subsidiary, pursuant to the above cited article of the Revised Penal Code."

* * * * *

"* * * the judgment appealed from is hereby modified in the sense that should defendant Ramon B. Aguas be found insolvent, appellant should pay appellees the sum of P953.00 as compensatory damages, P4,000.00 and P500.00 as moral damages suffered by Corazon and Helen Langcay, respectively, and P2,000.00 for attorney's fees. It is also ordered that this case be turned to the court of origin not only for the execution of this decision once it becomes final, but also for further proceedings against Jose B. Aguas, after proper summons, in the third-party complaint above mentioned. Without special pronouncement as to the payment of the costs."

Appellant-petitioner Diwata Vargas brought the case to this Court on a question of law, alleging that she cannot be held liable under Art. 103 of the Revised Penal Code for whatever violation or offense she may have committed under the Public Service Law and the Motor Vehicle Law and in the absence of a showing that she employed the person (driver) who caused the damage, and that she was engaged in an industry or a business, and where the evidence prove that the father (Jose B. Aguas) of the person primarily liable (Ramon Aguas) is his actual employer.

We hold that the Court of Appeals erred in considering appellant-petitioner Diwata Vargas only subsidiarily liable under Article 103 of the Revised Penal Code. This Court, in previous decisions, has always considered the registered owner/operator of a passenger vehicle, jointly and severally liable with the driver, for damages incurred by passengers or third persons as a consequence of injuries (or death) sustained in the operation of said vehicles. (Montoya vs. Ignacio, 94 Phil., 182; Timbol vs. Osias, G. R. No. L-7547, April 30, 1955; Vda. de Medina vs. Cresencia, 99 Phil., 506; Necesito vs. Paras, 104 Phil., 75; Erez vs. Jepte, 102 Phil., 103; Tamayo vs. Aquino and Rayos vs. Tamayo, 105 Phil., 949; 56 Off. Gaz. [36] 5617.) In the case of Erez vs. Jepte, *supra*, We held:

"* * * In synthesis, we hold that the registered owner, the defendant-appellant herein, is primarily responsible for the damage caused * * *"
(*Italics ours*)

In the case of Tamayo vs. Aquino, *supra*, We said:

"* * * As Tamayo is the registered owner of the truck, his responsibility to the public or to any passenger riding in the vehicle or truck must be direct * * *"
(*Italics ours*)

Petitioner argues that there was no showing that she employed the person (the driver) who caused the injuries. On the contrary, she argues, the evidence show that Jose B. Aguas, the father of the driver, is his actual employer. We believe that it is immaterial whether or not the driver was actually employed by the operator of record. It is even not necessary to prove who the actual owner of the vehicle and the employer of the driver is. Granting that, in this case, the father of the driver is the actual owner and that he is the actual employer, following the well settled principle that the operator of record continues to be the operator of the vehicle in contemplation of law, as regards the public and third persons, and as such is responsible for the consequences incident to its operation, we must hold and consider such owner/operator of record as the employer, in contemplation of law, of the driver. And, to give effect to this policy of law as enunciated in the above-cited decisions of this Court, we must now extend the

same and consider the actual operator and employer as the agent of the operator of record. In the case of *Tamayo vs. Aquino*, *supra*, this Court said:

"* * * In operating the truck without transfer thereof having been approved by the Public Service Commission, the transferee acted merely as agent of the registered owner. * * *" (Italics ours)

The purpose of the principles evolved by the decisions in these matters will be defeated and thwarted if we entertain the argument of petitioner that she is not liable because the actual owner and employer was established by the evidence. In the case of *Erezo vs. Jepte*, *supra*, the Court said:

"* * * With the above policy in mind, the question that defendant-appellant poses is: Should not the registered owner be allowed to the trial to prove who the actual and real owner is, and in accordance with such proof escape or evade responsibility and lay the same on the person actually owning the vehicle? We hold with the trial court that the law does not allow him to do so; the law, with its aim and policy in mind, does not relieve him directly of the responsibility that the law fixes and places upon him as an incident or consequence of registration. Were a registered owner allowed to evade responsibility by proving who the supposed transferee or owner is, it would be easy for him by collusion with others or otherwise, to escape said responsibility and transfer the same to an indefinite person, or to one who possesses no property with which to respond financially for the damage or injury done. A victim of recklessness on the public highways is without means to discover or identify the person actually causing the injury or damage. He has no means other than by a recourse to the registration in the Motor Vehicles Office to determine who is the owner. The protection that the law aims to extend to him would become illusory were the registered owner given the opportunity to escape liability by disproving his ownership. If the policy of the law is to be enforced and carried out, the registered owner should not be allowed to prove the contrary to the prejudice of the person injured; that is, to prove that a third person or another has become the owner, so that he may thereby be relieved of the responsibility to the injured person."

For the foregoing considerations, we hold that Article 103 is not the law applicable in this case; the petitioner stands liable, however, on the basis of the settled principle that as the registered owner, she is directly and primarily responsible and liable for damages sustained by passengers or third persons as a consequence of the negligent or careless operation of the vehicle registered in her name. Petitioner does not question the amounts of damages granted to respondents by the Court of Appeals and the same not appearing to be excessive or unconscionable, they should be maintained.

Wherefore, the decision of the Court of Appeals is hereby modified, as above indicated. With costs.

Bengzon, C. J., Padilla, Bautista Angelo, Reyes, J. B. L., and Paredes, JJ., concur.

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