

SERGIA BAUTISTA ESTRELLA, CONRADO ESTRELLA, AND RODOLFO ARCALAS, PETITIONERS, VS. COURT OF APPEALS, MACARIO, NARCISO, EUGENIA, ALL SURNAMED ANCHETA, AND CARMEN A. ABALAR, RESPON...

G.R. No. L-44902. April 20, 1989

Ponente: NARVASA, J.

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NARVASA, J.:

An old woman was killed twenty-two years ago. Her killing has so far gone unpunished, her heirs' plea for redress so far unanswered. It is time that justice is done.

The victim was Mauricia Baraceros. On January 21, 1967, in Barrio San Bartolome, Rosales, Pangasinan, she was run over by a power wagon being then driven by Rodolfo Arcalas. She suffered injuries resulting in cerebral hemorrhage and died almost instantly.

The police conducted an investigation of the incident shortly after its occurrence in the course of which Arcalas declared in a sworn statement that it was the power wagon he was operating which, while backing up, had run over Mauricia Baraceros; that the wagon belonged to the spouses Conrado Estrella and Sergia Bautista Estrella; and that he was said spouses' driver.[1]

A criminal case was filed in the Court of First Instance of Pangasinan against Rodolfo Arcalas, but was dismissed provisionally due to the failure of the prosecution to present witnesses.[2]

Mauricia's heirs engaged the services of counsel who, on June 27, 1967 made a written demand on the Estrella Spouses and their driver for settlement of their claim for damages. The demand was ignored. It appears that an offer of the Estrellas of P500.00 as settlement had earlier been spurned by the heirs.1

Two months afterwards, the heirs of Mauricia Baraceros (the private respondents herein named) brought suit in the Court of First Instance of Manila against the Estrellas and Rodolfo Arcalas.2 In their complaint they alleged that Arcalas had driven the power wagon in a "wanton, reckless and imprudent manner and without regard to the safety of life and property" and thus caused their mother's death; that the Estrellas had "failed to exercise due diligence in the selection and supervision of their employees, defendant driver having been reckless and careless;" and that consequently the defendants should pay P15,000.00 as actual and compensatory damages, P15,000.00 as moral damages, P10,000.00 as exemplary damages, and P3,000.00 as attorney's fees.3

The Estrellas and Arcalas, for their part, alleged in their answer that they had no sufficient knowledge of facts and circumstances that might have caused the death of the victim, a nonagenarian, deaf and/or physically incapacitated; Arcalas had never been a careless or reckless driver; and the defendant spouses had "always exercised due diligence in the selection and supervision of their employees, and would never allow an employee to drive if he was reckless and careless."4

In due time, and on the plaintiffs heirs' motion, the case was set for pre-trial on February 8, 1968.⁵ Now began a long series of dilatory maneuvers on the part of counsel for the Estrellas and Arcalas.

The Estrellas' counsel moved for postponement of the pre-trial of February 8, 1968. This was granted and the pre-trial was reset on February 21, 1968. The Estrellas' counsel subsequently moved for postponement of the pre-trial of February 21, 1968. Again this was granted, and the pre-trial was re-scheduled on May 16, 1968.⁶

The pre-trial was finally held on May 16, 1968. The parties tried but failed to come to an amicable settlement. The case was set for trial on the merits on June 27, 1968.⁷

On June 27, 1968, neither the Estrellas or Arcalas nor their counsel appeared for the trial. The plaintiffs, the Baraceros heirs, consequently moved to present their evidence ex parte; this was granted; but the Estrellas' lawyer came in later and succeeded in having the order for the ex parte hearing set aside and once more transferring the hearing to another date.⁸

When the case was called for trial on August 30, 1968, again, neither the Estrellas nor their counsel appeared. Again the plaintiffs moved that they be allowed to present their proofs ex parte, and again the Court granted the motion.¹ Before the appointed date of the ex parte hearing, the Estrellas' counsel moved for reconsideration. Over the heirs' opposition, and despite the not inconsiderable delay that had already attended the proceedings and the consequent prejudice thereby caused to the plaintiffs, and no doubt impelled by a desire to decide the case on the merits on the basis of evidence fully and fairly presented by both sides, the Court set aside the order for ex parte hearing and once more set a new date for regular trial of the case.²

At the trial on October 13, 1969, there was once again no appearance by the Estrellas or Alcaras nor their counsel. Since service of the notice of trial on the Estrellas' counsel could not be ascertained from the record, the Court reset the hearing on November 17, 1969, with the warning that it would not countenance any further delay.³

The trial was finally held on November 17, 1969, almost two (2) years after the action was commenced. The Baraceros heirs presented their evidence, and rested their case. The Estrellas' counsel forthwith moved for suspension of the hearing in order, according to him, that the heirs' proposal for amicable settlement might be fully explored and also, that he might file a written motion to dismiss the case (demurrer to evidence). The Court denied the motion and directed counsel to present evidence in his clients' (defendants') behalf. As it turned out, despite the Court's earlier warning that it would brook no further delay of the proceedings, counsel was not ready. Not one of his clients was in Court, or otherwise available to give testimony. He did the only thing he could do under the circumstances. He marked certain documents (Exhibits 1, 2, 2-A to 2-D) and offered them as evidence for the defendants.⁴

It is noteworthy that even at this time, at termination of the trial on the merits, the Estrellas and Alcaras were given yet one more opportunity to settle the case amicably. The Court still gave the parties a period of one month to try to agree on a voluntary settlement, and if successful, submit the corresponding written compromise. The month passed; but no word was received by the Court from the Estrellas. They filed no motion or pleading whatever, not even a memorandum embodying the arguments they would have adduced in the demurrer to evidence they had said they wished to file, or a motion to reopen the case.

On February 4, 1970, judgment was finally handed down.¹ The Trial Court's verdict was in the heirs' favor, and its dispositive part reads as follows:

"From the totality of all the evidence presented by the plaintiffs which, as hereinabove observed, has not been contradicted, impeached, or refuted by contrary evidence of the defendants, the Court hereby renders judgment ordering the defendants to pay to the plaintiffs, jointly and severally:

- (a) The amount of P12,000.00 for the death of Mauricia Baraceres;
- (b) The amount of P5,000.00 as moral damages suffered by the herein plaintiffs, who are the children of the victim;
- (c) The amount of P2,500.00 as exemplary damages;
- (d) The amount of P1,500.00 as reasonable attorney's fees;
- (e) The amount of P500.00 in reimbursement of funeral expenses; and
- (f) The costs of this suit."²

The Estrellas and Arcalas moved for reconsideration. The Court denied the motion. In its order of denial, the Court made the following trenchant closing remarks:

" * * (The) defendants do not appear to have given due attention to this case. At no time in the past have they chosen to appear before this Court so that the latter may be able to administer justice promptly and expeditiously. This is deplorable when it is taken into consideration that the herein defendants, the Estrella spouses, are people of substance and influence in the community, and as such are expected to set the example in cooperating with the Court in the administration of justice. On the other hand, the herein plaintiffs belong to the group of people commonly referred to as the ordinary 'tao' who can hardly pay for the services of their counsel, or enlist the cooperation of witnesses in the prosecution of their case. A good President of this country in his lifetime once remarked that he who has less in life should be entitled to more in law."

The Estrellas and Arcalas appealed to the Court of Appeals. Their appeal failed. On June 25, 1976 that Court rendered a decision "finding the appealed judgment to be in accordance with law and evidence" and affirming it, "with the modification that only appellant Rodolfo Arcalas is ordered to pay plaintiffs-appellee the amount of P2,500.00 as exemplary damages."³ A motion for reconsideration was presented. It was denied.

Nothing daunted, the Estrellas and Arcalas have come to this Court, still insisting that both the Trial Court and the Court of Appeals erred in holding them liable to the heirs of Mauricia Baraceres. Their appeal will once again fail.

The petitioners submit that it was error for the Appellate Court to have sanctioned the use of Arcalas' sworn statement (Exh. B)¹ before the police as evidence, it being hearsay in character;² to have adjudged the Estrella Spouses liable despite absence of proof of their ownership of the vehicle and the employment relation between them and Arcalas;³ and to have held that they had not been denied due process when they "were not allowed continuance to present their defense nor to present a motion to dismiss."⁴

1. Arcalas' statement to the police (Exh. B), in which he declared that while he was driving a vehicle owned by the spouses Estrella, he had "run over an old woman," constitutes competent proof. It is an extra-judicial admission, admissible pursuant to the well-known rule that the act, declaration or omission of a party as to a relevant fact may be received in evidence against him.⁵ It is properly receivable as proof against the declarant, it being contrary to the position taken by him in the action. In the answer filed in behalf of the declarant,⁶ Arcalas and his co-defendants specifically denied, for lack of "sufficient knowledge," the allegation in the complaint that "on January 21, 1967, at about 11:00 o'clock a.m., in Barrio San Bartolome, Rosales, Pangasinan, the said motor vehicle, while being driven by defendant Arcalas, ran over one Mauricia Baraceres resulting in the latter's untimely death."⁷ That denial is obviously inconsistent with Arcalas' sworn written declaration that he had indeed been operating the wagon in question on that date and time and had on that occasion "run over an old woman." It is precisely the factor of inconsistency between that declaration and the allegations in the pleading subsequently filed by him, concerning relevant facts, that makes the former admissible in evidence against the declarant. The

hearsay rule has no application to the situation. The extra-judicial declaration is not excludible on the ground of hearsay -- which proscribes evidence as to which opportunity to cross-examine is not provided to the party against whom it is adduced at the time of presentation -- since the declarant can hardly complain of not having the opportunity to cross-examine himself at the time that his prior statement is submitted as proof against him.⁸

The petitioners' argument that Arcalas sworn statement before the police contains self-contradictory statements rendering it "unreliable," is less than persuasive. While it is true that in the statement, Exhibit B, Arcalas said that "before I drove backward my wagon, I see at the back of my truck if there were any persons but when I saw no any person I drive backward and much to my surprise when I learned from the checker that I run over an old woman which I saw later already lying dead" -- a statement which petitioners claim negates negligence on Arcalas' part -- it is also a fact that to the question, "Do you admit that it was your fault to the effect of running over an old woman to death," Arcalas gave an unequivocal, unqualified answer, "Yes, sir."

There can thus be no quarrel with the correctness of the Appellate Court's factual finding that Arcalas "is guilty of 'inexcusable lack of precaution' in backing up the vehicle without making sure that there is no person at the back who may be hit as he backs up the car."¹

2. Neither does the argument of petitioner spouses that there is no proof that they own the wagon driven by Arcalas and that Arcalas was their employee carry any weight. Their answer contains implicit albeit unmistakable acknowledgment of both these facts. In that pleading it is averred in behalf of said Estrella Spouses that "the vehicle has been and is always, driven in a careful and prudent manner, mindful always of the safety of life and property," that they had "exercised, and are all the time exercising due diligence in the selection and supervision of their employees," and therefore they would never have allowed "Arcalas to drive their vehicle if he is reckless and careless," the latter having in truth "always observed and followed safety rules during all the many years that he had been driving motor vehicles."²

3. The petitioners' last submittal that they should have been accorded a postponement to present evidence in their behalf after the plaintiffs had rested, or to file a demurrer to evidence, is also undeserving of credit. It conveniently ignores the fact that they had already delayed the disposition of the case by many motions for cancellation of, if not indeed by failure to appear at hearings despite notice. It conveniently ignores the fact that they were granted by the Court a period of one month after the case had been declared submitted for decision, within which to make one last attempt to settle the case amicably -- their constant representation to the Court being precisely that they were negotiating for such a settlement, but the month passed with nothing at all being heard from petitioners. They could have done the Trial Court the courtesy of reporting on their efforts at settlement. They could have filed a motion to dismiss or to reopen, or a demurrer to evidence as they now assert they wished to do then. They did exactly nothing. At the end of the proceedings in the Trial Court, as at the beginning, they did not, as pointedly remarked by the Trial Judge, give "due attention to this case. At no time in the past have they chosen to appear before this Court so that the latter may be able to administer justice promptly and expeditiously." Considering the recorded antecedents, the petitioners are the last persons who may properly lay claim to a denial of due process.

4. The award by the Trial and Appellate Courts of P12,000.00 to the plaintiffs as indemnity for the death of Mauricia Baraceres, while correct at the time made, should now be increased to P30,000.00 in accordance with prevailing and consistently observed jurisprudence.¹

WHEREFORE, the petition for review on certiorari is DENIED for lack of merit, and the judgment of the Trial Court, as modified by that of the Court of Appeals, is AFFIRMED, with costs against the petitioners.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] SEE Amended Record on Appeal, p. 43

[2] Id., p. 44

1 Id., p. 43

2 Docketed as Civil Case No. 70582

3 Rollo, pp. 22-23

4 Amended Rec. on App., p. 7

5 Id., pp. 8-11

6 Id., pp. 11-15

7 Id., p. 15

8 Id., pp. 16-17

1 Id., pp. 17-18

2 Id., pp. 15-20

3 Id., pp. 39-40

4 Id., pp. 40-41

1 By Hon. Amador E. Gomez; Amended Rec. on App., pp. 42-46

2 Amended Rec. on App., p. 46

3 Rollo, p. 30

1 SEE footnote 1, p. 1, supra

2 Rollo, pp. 12-16, 151-153

3 Id., pp. 154-155

4 Id., pp. 16-20, 148-151

5 Sec. 22 Rule 130, Rules of Court

6 Rollo, p. 47; Amended Rec. on App., p. 6

7 Id., Amended Rec. on App., pp. 2-3

8 SEE *Peo. v. Sarmiento*, 64 SCRA 350; *Collector of Internal Revenue v. Aznar*, 102 Phil. 979, *Peo. v. Briosos*; 37 SCRA 336, *Peo. v. Carlos*, 47 Phil. 626, and *Pastor v. Gaspar*, 2 Phil. 592; see also, *Francisco*, Rules of Court, 1973 ed., Vol. VII, pp. 434-438

1 Rollo, p. 45

2 Id., p. 47, Amended Rec. on App., pp. 6, 7

1 SEE De Lima v. Laguna Tayabas Co., 160 SCRA 70, 78 (1988)

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