

PLACIDO C. RAMOS AND AUGUSTO L. RAMOS, PETITIONERS, VS. PEPSI-COLA BOTTLING CO. OF THE P.I. AND ANDRES BONIFACIO, RESPONDENTS.

G.R. No. L-22533. May 16, 1967

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Petitioners seek a reconsideration[1] of Our decision[2] in the instant case affirming in toto the challenged decision of the Court of Appeals absolving respondent PEPSI-COLA from liability. In Our decision, We refrained from passing on the merits of the question whether PEPSI-COLA, in operating the tractor-truck and trailer, violated the Rev. Motor Vehicles Law[3] and the rules and regulations related thereto, for the procedural reason that it did not appear to have been raised before the Court of Appeals.

It now appears, however, that said question was raised in a motion to reconsider filed with the Court of Appeals which resolved the same against petitioners. Due consideration of the matter on its merits, convinces Us that the decision of the Court of Appeals should still be affirmed in toto.

Petitioners impute to PEPSI-COLA the violation of subpars. 1 and 4(d), par. (a), Sec. 27 of M.V.O. Administrative Order No. 1, dated Sept. 1, 1951, in that at the time of the collision, the trailer-truck, which had a total weight of 30,000 kgms., was (a) being driven at a speed of about 30 k.p.h., or beyond the 15 k.p.h. limit set and (b) was not equipped with a rear-vision mirror nor provided with a helper for the driver.

The cited provisions read:

"SECTION 27. - Registration, operation, and inspection of truck-trailer combinations, semi-trailers, and tractors

"(a) No trailer or semi-trailer having a gross weight of more than 2,000 kilograms and is not equipped with effective brakes on at least two opposite wheels of the rear axle and are so controlled that the brakes will act in unison with or preceding the effective action of the brakes of the tractor-truck shall be registered for operation on public highways of the Philippines; provided, that the trailers without brakes may be registered from year to year for operation under the following conditions:

"1. No such trailer shall be operated at any time at a speed in excess of 15 kilometers per hour in conjunction with a tractor-truck, the actual gross weight of which is less than twice the weight of the trailer.

x x x x x

"4(d) Tractor-trucks shall be either equipped with rear-vision mirror to enable the driver to see vehicles approaching from the rear or shall carry a helper who shall be so stationed on the truck or trailer that he will constantly have a view of the rear. He shall be provided with means of effectively signaling to the driver to give way to overtaking vehicles.

"4(e) No truck and trailer combination shall be operated at a speed greater than 30 kilometers per hour."

It will be noted that the 15 k.p.h. limit in subpar. 1, supra, refers only to trailers or semi-trailers having a gross weight of more than 2,000 kgms., AND which are "not equipped with effective brakes on at least two opposite wheels of the rear axle and are so controlled that the brakes will act in unison with or preceding the effective action of the brakes of the tractor-truck. x x x" This is the condition set in the proviso in par. (a), supra, wherein "trailers without /such/ brakes may be registered from year to year for operation x x x", i.e., they should not "be operated at any time at a speed in excess of 15 kilometers per hour in conjunction with a tractor-truck x x x". But there was no finding by the Court of Appeals that the truck-trailer here did not have such brakes. In the absence of such fact, it is subpar. 4(e), supra, that will apply. And petitioners admit that the truck-trailer was being driven at about 30 k.p.h.

It is a fact that driver Bonifacio was not accompanied by a helper on the night of the collision since he was found to be driving alone. However, there is no finding that the tractor-truck did not have a rear-vision mirror. To be sure, the records disclose that Pat. Rodolfo Pahate, the traffic policeman who went to the collision scene, testified that he saw the tractor-truck there but he does not remember if it had any rear vision mirror.[4] This cannot prove lack of rear-vision mirror. And the cited provision - subpar. 4(d) - is complied if either of the two alternatives, i.e., having a rear-vision mirror or a helper, is present. Stated otherwise, said provision is violated only where there is a positive finding that the tractor-truck did not have both rear-vision mirror and a helper for the driver.

Petitioners also charge PEPSI-COLA with having violated par. (b) of Sec. 8-A of the Rev. Motor Vehicles Law, providing that:

"No motor vehicle operating as a single unit shall exceed the following dimensions:

"Overall width 2.5 meters"

x x x x

since there was an express finding that the truck-trailer was 3 meters wide. However, Sec. 9(d) of the same law, as amended, providing that -

"SEC. 9. Special permits, fees for. The chief of the Motor Vehicles Office with the approval of the Secretary of Public Works and Communications shall establish regulations and a tariff of additional fees under which special permits may be issued in the discretion of the Chief of the Motor Vehicles Office or his deputies, for each of the following special cases, and without such special permit, no such motor vehicles shall be operated on the public highways.

x x x x

"(d) For registration or use of a motor vehicle exceeding the limit of permissible dimensions specified in subsections (b) and (c) of section eight-A hereof." (Emphasis supplied)

x x x x

expressly allows the registration or use of motor vehicles exceeding the limits of permissible dimensions specified in subset. (b) of Sec. 8-A. So, to conclude that there was a violation of law - which undisputably constitutes negligence, at the very least - it is not enough that the width of the tractor-truck exceed the limit in Sec. 8-A; in addition, it must also appear that there was no special permit granted under Sec. 9. Unfortunately for petitioners, that vital factual link is missing. There was no proof much less any finding to that effect. And it was incumbent upon petitioners-appellants to have proved lack of such permit since the tractor-truck and the trailer were registered.[5] Compliance with law and regularity in the performance of official duty - in this case, the issuance of proper registration papers - are presumed[6] and prevail over mere surmises. Having charged a violation of law, the onus of substantiating the same fell upon petitioners-appellants. Hence, the conclusion that there was a

violation of the law lacks factual basis.

Petitioners would also have Us abandon the Bahia ruling.[7] In its stead, We are urged to apply the Anglo-American doctrine of respondeat superior. We cannot however, abandon the Bahia ruling without going against the explicit mandate of the law. A motor vehicle owner is not an absolute insurer against all damages caused by its driver. Article 2180 of our Civil Code is very explicit that the owner's responsibility shall cease once it proves that it has observed the diligence of a good father of a family to prevent damage. The Bahia case merely clarified what that diligence consists of, namely, diligence in the selection and supervision of the driver-employee.

Neither could We apply the respondeat superior principle. Under Article 2180 of the Civil Code, the basis of an employer's liability is his own negligence, not that of his employees. The former is made responsible for failing to properly and diligently select and super-vise his erring employees. We do not and have never -followed the respondeat superior rule.[8] So, the American rulings cited by petitioners, based as they are on said doctrine, are not authoritative here.

IN VIEW OF THE FOREGOING, the motion for reconsideration is hereby denied.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Makalintal, Zaldivar, Sanchez, and Castro, JJ., concur.

[1] Typographical errors appearing in the printed motion for reconsideration have been corrected upon petitioner's request granted by Us.

[2] Promulgated Feb. 9, 1967.

[3] Act No. 3992.

[4] Session of Jan. 13, 1960, T.S.N., p. 68.

[5] See Pars. 2 and 3 of Complaint, Rollo, p. 44.

[6] Rule 131, Sec. 5(m) and (ff), Rev. Rules of Court.

[7] Bahia vs. Litonjua, 30 Phil. 624, which held that once the employer satisfactorily shows that in the selection and supervision of the driver, he has exercised the care and diligence of a good father of a family, he is relieved from liability.

[8] Cangco vs. M.R.R., 38 Phil. 768; Cuison vs. Norton, 55 Phil. 18.

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