

BATANGAS LAGUNA TAYABAS BUS COMPANY, INC. AND ANDRES I. ILAGAN, PETITIONERS VS. COURT OF APPEALS, SOTERO CARDEMA, EUFROCINA ALCALDE CARDEMA, MELQUISEDEC P. ELIZONDO AND MAXIMA T...*G.R. Nos. L-33138-39. June 27, 1975*

Ponente: FERNANDO, J.

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For a collision caused by the negligence of now petitioner Andres I. Ilagan, a driver of petitioner Batangas Laguna Tayabas Bus Company, Inc., a suit was brought and damages awarded to private respondents,[1] both by the lower court and thereafter respondent Court of Appeals. Hence this appeal by certiorari. The facts as set forth in a well-written decision by Justice Jose N. Leuterio of respondent Court would leave no doubt as to the reckless manner in which the bus was driven. The law as is but proper and just exacts responsibility for the injury inflicted. There is, however, an effort to avoid the consequences of such culpable conduct by the invocation of *Corpus vs. Paje*. [2] It does not suffice. It has the appearance of a mere afterthought, a last-ditch attempt to escape liability. Moreover, it is not applicable, even on the assumption that it is doctrinal, which is not the case. No persuasiveness attaches to such a plea, when it is considered further that the opinion of Justice Capistrano is misread. There is another objection based on the amount of damages awarded. It is equally unavailing. The appealed decision is in conformity with law. There is no choice but to affirm.

The appealed decision starts with this statement of the case: "Civil Cases Nos. B-390 and B-391 of the Court of First Instance of Laguna are for the recovery of actual, compensatory, and moral damages, with attorney's fees, arising from a vehicular accident. It is alleged in both complaints that the accident was due to the notorious negligence of the defendant driver, Andres I. Ilagan, who drove the bus of his co-defendant, Batangas Transportation Company, now BLTBCo, without regard to existing traffic rules and regulations, and without due attention to the welfare and safety of his passengers and those of oncoming vehicles, resulting in the death of the owner driver of the Chevrolet car, Ricardo de los Reyes, and his companion, Jean Elizondo, and causing serious physical injuries to Eufrocina Alcalde Cardema. The serious physical injuries suffered by Eufrocina Alcalde Cardema is the subject of the complaint Civil Case No. B-390, and the death of Jean Elizondo in Civil Case No. B-391. The defenses in both cases are that there was no negligence on the part of the driver defendant, Andres I. Ilagan, in driving and operating the Batangas Transportation Co. bus bearing plate No. 5716; that Ilagan had driven the bus in a careful and prudent manner, and the accident was due to the negligence of Ricardo de los Reyes, or was fortuitous in character, and that defendant company had exercised and continues to exercise extraordinary diligence in the management, supervision and operation of its vehicles and personnel, including its drivers, in order to avoid injury to persons and to prevent accidents, as far as human care and foresight can provide, using the utmost diligence of a very cautious person, with due regard for all the circumstances. The two cases, having arisen from the same incident, were tried jointly by agreement of the parties"[3] Then comes that portion dealing with the facts: "On February 18, 1963, Ricardo de los Reyes left Calamba, Laguna, at about 5

o'clock in the morning, driving his Chevrolet car bearing Plate No. 7188 bound for Manila. Seated on the front seat beside him was his son, Eduardo de los Reyes, and directly behind Ricardo was Eufrocina Alcalde Cardema, a cousin of Ricardo's wife. On the right of Eufrocina was her niece, Jean Elizondo, and on the latter's right was Ursula Bayan. When he reached the Manila South Super Highway, about 500 meters from the Air Force Station, in a straight and level road, BTCO bus No. 316, bearing Plate No. 5716, driven by the defendant, Andres I. Ilagan, and coming from the opposite direction on its way to Lemery, suddenly overtook a big cargo truck. In so doing, the bus took the left lane or the lane on which De los Reyes was travelling. Ricardo de los Reyes swerved to the right to avoid the bus but it was too late. The bus was running so fast that notwithstanding that the Chevrolet car was almost touching the shoulder of the road, the bus hit the car on the left front side up to the driver's door. The bus continued travelling to the left and landed in an oblique but upright position on a canal about 30 feet from the point of impact after narrowly missing an electric post. The car landed on the shoulder of the road about 15 feet from the point of impact. The point of impact was fixed by Policeman Guadarama at about the middle of the left lane, where he found earth and broken glasses. Ricardo de los Reyes, Eufrocina Alcalde Cardema, and Jean Elizondo were brought to the Philippine General Hospital. Ricardo de los Reyes died before he could be brought to the operating room. Jean Elizondo was dead upon arrival to the PGH."^[4] The reckless manner in which petitioner Ilagan was driving was clearly set forth by Justice Leuterio in his opinion thus: "By the appellant's own admission, he was travelling on the inner lane of the highway going south. It does not appear that there were vehicles towards his right. Under the circumstances, he would ordinarily be travelling on the middle of the right lane and not close to the center line. That he was travelling close to the center line corroborates the evidence for the plaintiffs that he overtook a big cargo truck, and consequently took the left lane going south or the right lane going north, or the lane of De los Reyes, who was travelling north. To overtake the cargo truck, Ilagan had to run faster than the cargo truck, so that Ilagan's testimony that he was running only at about 40 kms. per hour at the time of the accident obviously cannot be true. At that hour in the morning at about 6:00 o'clock, and this is supported by the evidence, there were very few vehicles travelling on the Super Highway. The cargo truck certainly must be travelling at least 40 kms. if not more than 40 kms. per hour. To overtake the cargo truck, the appellant must have to run not less than 60 kms. per hour. Hence, the testimonies of Cardema and Vinas that the bus was running fast. The testimonies of Vinas and Cardema that the bus suddenly swerved to the left is further corroborated by Ilagan's testimony that he did not see the rut. He did not see the rut because he was following the cargo truck and was running fast. His attention at that time was focused on the cargo truck and the left lane. And further proving that the appellant was running at a high speed was the fact that after the impact, his bus ran for another 30 feet and would have ran farther had it not fallen into the canal. In suddenly overtaking the big cargo truck, Ilagan had acted with reckless imprudence, for he should have seen, and must have seen the Chevrolet car coming from the opposite direction. It is reckless imprudence to overtake a vehicle and take the left lane when another vehicle is coming from the opposite direction. Due regard for the safety of his passengers and other vehicles demand that a driver should not overtake another vehicle and take the left lane unless the road is clear and overtaking can be done safely. This precaution Ilagan had failed to take. Instead, he recklessly and imprudently took the left lane without regard to oncoming vehicles. This imprudence resulted in death to two persons and serious physical injuries to Eufrocina. To say that the accident was due to the negligence of Ricardo de los Reyes, who under the doctrine of the last clear chance should have avoided the accident, or, that at least De los Reyes was guilty of contributory negligence, is to add insult to injury, and to desecrate the memory of one who can no longer defend himself. De los Reyes was in his proper lane and where he had a right to be. Nevertheless, he did what he could do under the circumstances to avoid the accident. He swerved to the right to avoid the onrushing bus, but the appellant was running so fast and his act was so sudden that all his efforts to avoid the bus were rendered futile. We cannot understand how de los Reyes could be charged with negligence, or even contributory negligence, when there is absolutely no evidence that de los Reyes, who was where he had a

right to be, had seen the bus in time to avoid the accident. Contributory negligence cannot be presumed, and the appellants are as much duty-bound to prove this defense as it was the duty of the plaintiffs to prove defendant's negligence. By the way, there is absolutely no evidence in the record that de los Reyes was trying to overtake another vehicle before the accident." [5]

With such undisputable facts, it is difficult to imagine an instance of a clearer case of liability rightfully imposed by law on the parties responsible for the injury afflicted. Even petitioners could not possibly be unaware that such indeed should be the case. That may explain why stress is laid in their brief on a procedural objection invoking *Corpus vs. Paje*. [6] To repeat, it is impressed with futility. Nor is there any validity to the contention finding fault with the award of damages.

1. The principal reliance of petitioners is on that portion of the opinion of Justice Capistrano in *Corpus vs. Paje* which reads thus: "As reckless imprudence or criminal negligence is not one of the three crimes mentioned in Article 33 of the Civil Code, there is no independent civil action for damages that may be instituted in connection with said offense. Hence, homicide through reckless imprudence or criminal negligence comes under the general rule that the acquittal of the defendant in the criminal action is a bar to his civil liability based upon the same criminal act notwithstanding that the injured party reserved his right to institute a separate civil action (*Chantangco vs. Abarao*, *supra*). In the language of the Rules of Court (Rule III Sec. 3) the extinction of the criminal action by acquittal of the defendant on the ground that the criminal act charged against him did not exist, necessarily extinguished also the civil action for damages based upon the same act." [7] From which, they would infer that "the criminal action against petitioner Ilagan must first be resolved by respondent Court of Appeals and, until final resolution thereon, it is premature to proceed in the two civil cases." [8]

Petitioners would make much of the above-cited portion of the opinion of Justice Capistrano. That is to rely on a frail reed, to clutch at straws. As pointed out in the brief for private respondents, such an objection was never raised in the lower court as well as in the Court of Appeals and therefore came too late. Moreover, the facts are dissimilar, and therefore its ruling cannot control. It cannot escape attention likewise that less than a majority of the Court gave their approval to the opinion penned by Justice Capistrano. The most serious objection though is that the interpretation sought to be fastened by petitioners, considering that as pointed out in the appealed decision this is an action based on *culpa aquiliana*, is its disregard of codal provisions as well as of an impressive number of pronouncements of this Tribunal.

It is undoubted that it is only when this case was elevated to this Court in this appeal by certiorari that the opinion of Justice Capistrano in *Corpus vs. Paje* was invoked. It is well-settled that for an error to be imputed to a lower court or to the Court of Appeals, there must be a showing that there was a disregard by it of a rule or principle of law seasonably raised. In an attempt to evade the applicability of this norm,, petitioners, in their reply brief, could only allege that such decision "did not come to the attention of many legal practitioners until the full text thereof was reproduced in the Supreme Courts Reports, Annotated." [9] If that were so, such negligence should not prejudice private respondents. *Corpus vs. Paje* was decided on July 31, 1969. The decision of the Court of Appeals was promulgated on November 19, 1970. There was thus a period of one year and four months within which such a point could be pressed. What is more, there was likewise the additional time for filing a motion for reconsideration where this issue could be submitted for resolution. Petitioners did neither; they only have themselves then to blame. There is no reason why this Court should depart from its constant holding that a question of law save in very exceptional circumstances cannot be raised for the first time on appeal. [10]

Petitioners, moreover, ignored the crucial distinction that is readily discernible between the facts in *Corpus vs. Paje* and the facts in the present case. As was pointed out in the opinion of Justice Capistrano, the civil action for damages was made to rest "upon the same criminal negligence" of which the defendant Felardo Paje, was

acquitted in the criminal action. From the opening paragraph of the opinion of the Court of Appeals, now sought to be reviewed, it is quite apparent that the liability of petitioners was not predicated on criminal negligence but rather on a quasi-delict which, as is clearly pointed out by the Civil Code, is an independent source of obligation.[11] The accident in *Corpus* occurred on December 23, 1956 and the civil action was not instituted until November 21, 1961 during the pendency of the appeal in a criminal case in the Court of Appeals. On the other hand, in this case, it was only a matter of months, the mishap having taken place on February 18, 1963 and the case being filed in July of the same year, when the civil action precisely to hold petitioners liable for the quasi-delict was filed by private respondent. As a matter of fact, in *Corpus*, the civil complaint was dismissed by the lower court precisely on the ground that the action based upon the quasi-delict had prescribed.[12] That certainly cannot be said of the present litigation. From the beginning both parties were fully aware that it was the negligence of petitioner Ilagan as driver of petitioner Batangas Laguna Tayabas Bus Company, Inc. that gave rise to the civil suit. It does not admit of doubt therefore that the invocation of *Corpus vs. Paje* is misplaced considering the dissimilarity in the facts of the case and the equally relevant consideration that the portion of the ponencia of Justice Capistrano, insofar as it could be made to lend support to petitioners' plea, is not doctrinal in character, lacking one vote for it to be the expression of the opinion of this Court.[13]

Nor is this all. It is to misread the opinion of Justice Capistrano in *Paje* if it is made to yield a significance that would under the circumstances of this case reduce to a barren form of words the jural concept of a quasi-delict as an independent source of obligation. The law is anything but that. The Civil Code speaks unequivocally to the contrary. Article 2176 provides: "Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter." [14] The liability of an employer is made clear under Article 2180 in this wise: "Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry." [15] So it was under the former Civil Code, although there is a slight difference in phraseology. [16] What is more, there is this new provision in Article 2177: "Responsibility for fault or negligence under the preceding article is entirely separate and distinct from the civil liability arising from negligence under the Penal Code. But the plaintiff cannot recover damages twice for the same act or omission of the defendant." [17] This Court in appropriate cases has given force and effectivity to the mandates thus so clearly expressed. That was the tenor of decisions when the former Civil Code was still operative, starting from *Donaldson, Sim and Co. vs. Smith, Bell and Co.* [18] promulgated in 1902. Then, in 1907 in the leading case of *Rakes vs. Atlantic, Gulf and Pacific Co.*, [19] Manresa was quoted to the effect that culpa or negligence or culpa aquiliana is an independent source of obligation between two persons not so formerly bound by any juridical tie. The civil liability that may arise according to Justice Tracey in his opinion "was not intended to be merged in the criminal . . . Where an individual is civilly liable for a negligent act or omission, it is not required that the injured party should seek out a third person criminally liable whose prosecution must be a condition precedent to the enforcement of the civil right." [20] As was well put by Justice Torres in *Novo vs. Ainsworth*, [21] decided in 1913: "This liability is contracted without agreement or consent of the person found liable, on the principle that in all cases where harm, loss, or damage has been caused to a person or to his rights by an act or omission, the aggrieved party is entitled to be indemnified . . ." [22] Justice Fisher in another leading case, *Cangco vs. Manila Railroad Co.* [23] turned once more to Manresa's formulation of the basic doctrine that "liability arising from extracontractual culpa is always based upon a voluntary act or omission which, without willful intent, but by mere negligence or inattention, had caused damage to another." [24] As correctly stressed by Justice Street, what was set forth in Article 1902 of the former Civil Code is a "general doctrine of jurisprudence." [25]

The first assigned error relying on the rather forced interpretation accorded certain passages in *Corpus vs. Paje* is

thus clearly bereft of any persuasive force.

2. It is not too far-fetched to impute to petitioners an awareness that to deny liability under the circumstances would be an indefensible posture, devoid of support in law no less than in morals. That may explain why in the next two errors assigned, what is sought is merely to minimize the amount of the damages for which they were held liable by the Court of Appeals. In their second and third assignment of errors, they would seek a reduction of P4,988.84 found by both the lower court and the Court of Appeals as actual hospital expenses incurred by private respondent Eufrocina Alcalde Cardema and of P8,000.00 for the loss of earnings of the deceased daughter, Jean Elizondo, of private respondents Melquisedec P. Elizondo and Maxima T. Alcalde. Reference to the appealed decision should readily make obvious that no such errors were committed. Thus: "We have examined the damages awarded by the Court a quo and we find them to be moderate and reasonable. The award of P4,988.84 for the hospitalization of Eufrocina Alcalde Cardema is supported by the statement of account of the Manila Railroad Hospital. It was certified to by Eufrocina Cardema and by the supervising auditor of the MRR Hospital. The fees of Dr. Alcantara of P3,000.00 is reasonable and moderate considering that he had performed two operations, and Eufrocina was under the care of Dr. Alcantara for 72 days in the hospital and even after her discharge from the hospital, she had to report for follow-up examination. There is even the probability of another operation should there be a tissue reaction. The award of P3,000.00 for reduction of income of Eufrocina Cardema is also reasonable because as a result of the injuries which she had suffered and because of the operations, Eufrocina Cardema can no longer engage in her former occupation of maintaining a boarding house. The award of P4,000.00 moral damages is reasonable considering the serious injuries that she had suffered consisting of broken bones, the operations that she underwent, and her physical pain and suffering. The award of the attorney's fees of P1,000.00 is likewise moderate because she was forced to litigate to enforce her claim. The award of P8,000.00 for the death of Jean Elizondo is even below the amount now allowed for death due to the act of the defendant. At the time of her death, Jean Elizondo was 18 years old, a bright student, and was in the second year college taking up chemical engineering. Obviously, if she had lived, she would have finished her course and would have earned much more than P8,000.00. Moral damages awarded at P6,000.00 is likewise reasonable. One would never know the pain, the sleepless nights, the torment that one suffers for the loss of a child in the prime of life. Certainly, the amount of P6,000.00 cannot assuage the loss of a daughter. Attorney's fees in the amount of P2,000.00 likewise is reasonable, defendant company having forced plaintiff to litigate. We also take into consideration that the defendant is a big corporation operating hundreds of vehicles. Certainly the amount awarded is not incompatible with the resources of the appellant company. It is after all a part of the overhead expenses of the defendant." [26] It may be added that the finding as to the amount of P4,988.84 for the hospitalization expenses is essentially one of fact and is not to be disturbed on appeal. It ill behooves petitioners to complain about the "speculative" character of the amount of P8,000.00 for the death of Jean Elizondo. The victim of their misdeed was at the threshold of youth, a lass of eighteen, then in the second year of a chemical engineering course, and in the language of the decision, "a bright student." [27] If anybody could complain then, it is her parents. What was awarded, as noted by Justice Leuterio, was admittedly less than that allowed by law. There ought to be a realization even on the part of petitioners that what was said by Justice Malcolm in *Bernal vs. House* [28] is more than just mere rhetoric. As was so vividly put by him, "there is not enough money in the entire world to compensate a mother for the death of her child." [29] In the traditional legal parlance, to quote Chief Justice Concepcion, "life expectancy is not only relevant, but, also, an important element in fixing the amount recoverable" [30] It would be then to disregard what has been so constantly and uninterruptedly adhered to if petitioners would have their way. To allow such a thing to happen would be a grave disservice to the law. [31]

WHEREFORE, the appealed decision of November 19, 1970 is affirmed. Costs against petitioners.

Barredo, Antonio, Aquino, and Concepcion Jr., JJ., concur.

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- [1] Sotero Cardema, Eufrocina Alcalde Cardema, Melquisedec P. Elizondo and Maxima T. Alcalde.
- [2] L-26737, July 31 1969, 28 SCRA 1062.
- [3] Decision, Annex C to Petition, 1-2.
- [4] Ibid, 3-4.
- [5] Ibid 10-12
- [6] L-26737, July 31, 1969, 28 SCRA 1062.
- [7] Brief for the Petitioners, 4-5.
- [8] Ibid, 5.
- [9] Reply Brief for the Petitioners, 2.
- [10] Cf. Ng Cho Cio vs. Ng Diong, L-14832, Jan. 28, 1961, I SCRA 275; City of Manila vs. Ebay, L-15872, April 26, 1961, 1 SCRA 1086; Republic vs. Aricheta, L-15589, May 31, 1961, 2 SCRA 469; Zambales Chromite vs. Robles, L-16182, Aug. 29, 1961, 2 SCRA 1051; Republic vs. Albert, L-12996, Jan. 31, 1962, 4 SCRA 173; Ferrer vs. Commissioner of Internal Revenue, L-16021, Aug. 31, 1962, 5 SCRA 1022; Rebodos vs. Workmen's Compensation Commission, L-18737, Nov. 29, 1962, 6 SCRA 717; J.M. Tuason Co. vs. Macalindong, L-15398, Dec. 29, 1962, 6 SCRA 938; Mendoza vs. Mella, L-18752, July 30, 1966, 17 SCRA 788; Dirige vs. Biranya, L-22033, July 30, 1966, 17 SCRA 840; Ramos vs. Pepsi-Cola Bottling Co., L-22533, Feb. 9, 1967, 19 SCRA 289; Sumerariz vs. Development Bank, L-23764, Dec. 26, 1967, 21 SCRA 1374; Manila Port Service vs. Court of Appeals, L-21890, March 29, 1968, 22 SCRA 1364; San Miguel Brewery vs. Vda. de Joves, L-24258, June 26, 1968, 23 SCRA 1093; Luzon Surety vs. Vda. de Garcia, L-25659, Oct. 31, 1969, 30 SCRA III; De Tanedo vs. De la Cruz, L-27667, March 25, 1970, 32 SCRA 63; Atlas Consolidated vs. Workmen's Compensation Commission, L-22439, May 29, 1970, 33 SCRA 132; Reparations Commission vs. Northern Lines, L-24835, July 31, 1970, 34 SCRA 203; Velasco vs. Manila Electric Co., L-18390, Dec. 20, 1971, 42 SCRA 556; Bashier vs. Commission on Elections L-33692, Feb. 24, 1972, 43 SCRA 238; National Marketing Corporation vs. Federation. L-22578, Jan. 31.
- [11] According to Article 1157 of the Civil Code, "obligations arise from law; contracts; quasi-contracts; acts or omissions punished by law; and quasi-delicts."
- [12] When therefore four Justices of the Court, Justice Dizon, the then Justice, now Chief Justice, Makalintal Justices Sanchez and Teehankee concurred in the result, it may be assumed that their concurrence was based on the same ground as that of prescription. Two other Justices, J.B.L. Reyes and Zaldivar, did not take part.
- [13] The then Chief Justice Concepcion and Justices Castro, Fernando and Barredo concurred in the opinion of Justice Capistrano.
- [14] Article 2176 of the Civil Code.
- [15] Article 2180 of the Civil Code.
- [16] According to Article 1902 of the former Civil Code: "Any person who by an act or omission causes damage to another by his fault or negligence shall be liable for the damage done." Art. 1903" insofar as pertinent was worded thus: "Owners or directors of an establishment or business are equally liable for any damages caused by their employees while engaged in the branch of the service in which employed, or on occasion of the performance

of their duties."

[17] Article 2177 of the Civil Code.

[18] 2 Phil. 766. Cf. *Johnson vs. David*, 5 Phil. 663 (1906) and *Batarra vs. Marcos*, 7 Phil. 156 (1906).

[19] 7 Phil. 359.

[20] *Ibid*, 364. Cf. *Almeida vs. Abaroa*, 8 Phil. 178 (1907); *Ullmann vs. Ullmann and Co.*, 10 Phil. 459 (1908); *Samson vs. Dionisio*, 11 Phil. 538 (1908); *Taylor vs. Manila Electric Railroad Co.*, 16 Phil. 8 (1910).

[21] 26 Phil. 380.

[22] *Ibid*, 385-386. Cf. *Algarra vs. Sandejas*, 27 Phil. 284 (1914); *Gilchrist vs. Cuddy*, 29 Phil. 542 (1915); *Yamada vs. Manila Railroad*, 33 Phil. 8 (1915); *Cerf vs. Medel*, 33 Phil. 37 (1915); *Carlos vs. Manila Electric Railroad Co.*, 34 Phil. 55 (1916).

[23] 38 Phil. 768 (1918);

[24] *Ibid*, 773. Cf. *Manila Railroad Co. vs. Compania Transatlantica*, 38 Phil. 875 (1918); *Daywalt vs. Corporacion de Padres Agustinos*, 39 Phil. 587 (1919); *Yu Biao Sontua vs. Ossorio*, 43 Phil. 511 (1922); *Sing Juco and Sing Bengco vs. Sunyantong*, 43 Phil. 589 (1922); *Borromeo vs. Manila Electric*, 44 Phil. 165 (1922).

[25] *Verzosa and Ruiz vs. Lim*, 45 Phil. 416 (1923). Cf. *Borromeo vs. Manila Electric*, 44 Phil. 165 (1922); *Agdoro vs. Philippine Mining Industrial Co.*, 45 Phil. 816 (1924); *Bishop of Nueva Caceres vs. Mun. of Tabaco*, 46 Phil. 271 (1924); *Lopez vs. Duruelo*, 52 Phil. 229 (1928); *Del Prado vs. Manila Electric Co.*, 52 Phil. 900 (1929); *Bernal vs. House and Tacloban Electric and Ice Plant*, 54 Phil. 327 (1930); *Enison vs. Norton and Harrison*, 55 Phil. 18 (1930); *Walter A. Smith and Co. vs. Cadwallader Gibson Lumber*, 55 Phil. 517 (1930); *San Carlos Milling vs. Bank of the P.I.*, 59 Phil. 59 (1933); *Barredo vs. Garcia*, 73 Phil. 607 (1942); *Castro vs. Acro Taxicab*, 82 Phil. 359 (1948); *Sudario vs. Acro Taxicab*, 86 Phil. 1 (1944); *Philippine National Bank vs. Bagamaspad*, 89 Phil. 365 (1951); *Connel Bros. Co. vs. Aduna*, 91 Phil. 79 (1952); *Diana vs. Batangas Transportation*, 93 Phil. 391 (1953).

[26] Decision, Annex C to Petition, 17-19.

[27] *Ibid* 18.

[28] 54 Phil. 327 (1930).

[29] *Ibid*. 330.

[30] *Villa Rey Transit vs. Court of Appeals*, L-25499, February 18, 1970, 31 SCRA 511, 516.

[31] Cf. *Manzanares vs. Moreta*, 38 Phil. 821 (1918); *Agdoro vs. Philippine Mining Industrial Co.*, 45 Phil. 816 (1924); *Bernal vs. House*, 54 Phil. 327 (1930); *Astudillo vs. Manila Electric Co.*, 55 Phil. 427 (1930); *Alcantara vs. Surro*, 93 Phil. 472 (1953); *Marchan vs. Mendoza*, L-24471, Aug. 30, 1968, 24 SCRA 888; *Saludares vs. Martinez*, L-27335, Oct. 28, 1969, 29 SCRA 745; *Longao vs. Fakat*, L-23978, Dec. 27, 1969, 30 SCRA 866; *Palisoc vs. Brillantes*, L-29025, Oct. 4, 1971, 41 SCRA 548.

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