

TEODORO C. UMALI, PETITIONER, VS. HON. ANGEL BACANI, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH IX OF THE COURT OF FIRST INSTANCE OF PANGASINAN AND FIDEL H. SAYNES, RESPONDENTS.

G.R. No. L-40570. January 30, 1976

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

Petition for certiorari to review the decision of the Court of First Instance of Pangasinan, Branch IX, in Civil Case No. U-2412, entitled, "Fidel H. Saynes, plaintiff-appellee versus Teodoro C. Umali, defendant-appellant", which found the death by electrocution of Manuel Saynes, a boy of 3 years and 8 months, as "due to the fault and negligence of the defendant (Umali) as owner and manager of the Alcala Electric Plant", although the liability of defendant is mitigated by contributory negligence of the parents of the boy "in not providing for the proper and adequate supervision and control over their son". The dispositive part of the decision reads as follows:

"Wherefore, the Court hereby renders judgment in favor of the plaintiff by ordering the defendant to pay the plaintiff the sum of Five Thousand Pesos (P5,000.00) for the death of his son, Manuel Saynes; the sum of One Thousand Two Hundred Pesos (P1,200.00) for actual expenses for and in connection with the burial of said deceased child, and the further sum of Three Thousand Pesos (P3,000.00) for moral damages and Five Hundred (P500.00) Pesos as reasonable attorney's fee, or a total of Nine Thousand Seven Hundred (P9,700.00) Pesos, and to pay the costs of this suit. It Is So Ordered."

Undisputed facts appearing of record are:

"On May 14, 1972, a storm with strong rain hit the Municipality of Alcala, Pangasinan, which started from 2:00 o'clock in the afternoon and lasted up to about midnight of the same day. During the storm, the banana plants standing on an elevated ground along the barrio road in San Pedro Ili of said municipality and near the transmission line of the Alcala Electric Plant were blown down and fell on the electric wire. As a result, the live electric wire was cut, one end of which was left hanging on the electric post and the other fell to the ground under the fallen banana plants.

"On the following morning, at about 9:00 o'clock barrio captain Luciano Bueno of San Pedro Ili who was passing by saw the broken electric wire and so he warned the people in the place not to go near the wire for they might get hurt. He also saw Cipriano Baldomero, a laborer of the Alcala Electric Plant near the place and notified him right then and there of the broken line and asked him to fix it, but the latter told the barrio captain that he could not do it but that he was going to look for the lineman to fix it.

"Sometime after the barrio captain and Cipriano Baldomero had left the place, a small boy of 3 years and 8 months old by the name of Manuel P. Saynes, whose house is just on the opposite side of the road went to the place where the broken line wire was and got contact with it. The boy was electrocuted and he subsequently died. It was only after the electrocution of Manuel Saynes that the broken line was fixed at about 10:00 o'clock on the same morning by the lineman of the electric plant."

Petitioner claims that he could not be liable under the concept of quasi-delict or tort as owner and manager of the Alcala Electric Plant because the proximate cause of the boy's death by electrocution could not be due to any negligence on his part, but rather to a fortuitous event – the storm that caused the banana plants to fall and cut the electric line – pointing out the absence of negligence on the part of his employee Cipriano Baldomero who tried to have the line repaired and the presence of negligence of the parents of the child in allowing him to leave his house during that time.

A careful examination of the record convinces Us that a series of negligence on the part of defendant's employees in the Alcala Electric Plant resulted in the death of the victim by electrocution. First, by the very evidence of the defendant, there were big and tall banana plants at the place of the incident standing on an elevated ground which were about 30 feet high and which were higher than the electric post supporting the electric line, and yet the employees of the defendant who, with ordinary foresight, could have easily seen that even in case of moderate winds the electric line would be endangered by banana plants being blown down, did not even take the necessary precaution to eliminate the source of danger to the electric line. Second, even after the employees of the Alcala Electric Plant were already aware of the possible damage the storm of May 14, 1972, could have caused their electric lines, thus becoming a possible threat to life and property, they did not cut off from the plant the flow of electricity along the lines, an act they could have easily done pending inspection of the wires to see if they had been cut. Third, employee Cipriano Baldomero was negligent on the morning of the incident because even if he was already made aware of the live cut wire, he did not have the foresight to realize that the same posed a danger to life and property, and that he should have taken the necessary precaution to prevent anybody from approaching the live wire; instead Baldomero left the premises because what was foremost in his mind was the repair of the line, obviously forgetting that if left unattended to it could endanger life and property.

On defendant's argument that the proximate cause of the victim's death could be attributed to the parents' negligence in allowing a child of tender age to go out of the house alone, We could readily see that because of the aforementioned series of negligence on the part of defendant's employees resulting in a live wire lying on the premises without any visible warning of its lethal character, anybody, even a responsible grown up or not necessarily an innocent child, could have met the same fate that befell the victim. It may be true, as the lower Court found out, that the contributory negligence of the victim's parents in not properly taking care of the child, which enabled him to leave the house alone on the morning of the incident and go to a nearby place (cut wire was very near the house where victim was living) where the fatal fallen wire electrocuted him, might mitigate respondent's liability, but We cannot agree with petitioner's theory that the parents' negligence constituted the proximate cause of the victim's death because the real proximate cause was the fallen live wire which posed a threat to life and property on that morning due to the series of negligence adverted to above committed by defendants' employees and which could have killed any other person who might by accident get into contact with it. Stated otherwise, even if the child was allowed to leave the house unattended due to the parents' negligence, he would not have died that morning were it not for the cut live wire he accidentally touched.

Art. 2179 of the Civil Code provides that if the negligence of the plaintiff (parents of the victim in this case) was only contributory, the immediate and proximate cause of the injury being the defendants' lack of due care, the plaintiff may recover damages, but the courts shall mitigate the damages to be awarded. This law may be availed of by the petitioner but does not exempt him from liability.

Petitioner's liability for injury caused by his employees' negligence is well defined in par. 4, of Article 2180 of the Civil Code, which states:

"The owner and manager of the establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their

functions."

The negligence of the employee is presumed to be the negligence of the employer because the employer is supposed to exercise supervision over the work of the employees. This liability of the employer is primary and direct (*Standard Vacuum Oil Co. vs. Tan* and Court of Appeals, 107 Phil. 109). In fact the proper defense for the employer to raise so that he may escape liability is to prove that he exercised the diligence of the good father of the family to prevent damage not only in the selection of his employees but also in adequately supervising them over their work. This defense was not adequately proven as found by the trial Court, and We do not find any sufficient reason to deviate from its finding.

Notwithstanding diligent efforts, We fail to find any reversible error committed by the trial Court in this case, either in its appreciation of the evidence on questions of facts or on the interpretation and application of laws governing quasi-delicts and liabilities emanating therefrom. The inevitable conclusion is that no error amounting to grave abuse of discretion was committed and the decision must be left untouched.

Wherefore, the decision of respondent Court dated June 27, 1974 is affirmed.

Cost against petitioner. So ordered.

Teehankee (Chairman), Makasiar, Muñoz Palma, and Martin, JJ., concur.

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