

JUANA VDA DE MARTEL, ET AL., PLAINTIFFS AND APPELLANTS, VS. JULIAN ADRALES Y FLORES, ET AL., DEFENDANTS AND APPELLEES.

G. R. No. L-16472. May 23, 1962

Ponente: PADILLA, J.

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PADILLA, J.:

In the opinion of the Court of Appeals only questions of law are raised in the appeal taken in this case, so it certified the case to this Court.

At the intersection of San Marcelino and Oregon streets, Manila, between 4:30 and 5:00 o'clock in the afternoon of 22 June 1951, a Golden Taxicab bearing plate No. 938, driven by Julian Adrales y Flores, coming from the left side of Oregon street toward Taft Avenue, hit and bumped a 1949 model Chevrolet car bearing plate No. 10219, driven by Enrique Martel on San Marcelino street, going toward San Andres street, Malate, Manila. Riding with Enrique were his father Antonio C. Martel who was seated on the front seat with him and Amaure Esquivel, a mechanic, who was seated on the left side of the back seat of the car. The impact of the collision threw out of the car Antonio C. Martel unconscious. He suffered physical injuries and was confined in the Philippine General Hospital for ten days and incapacitated to work for fifteen days as Supervisor of Sta. Mesa Slipway at a monthly salary of P700. His medical expenses amounted to P115. His car was damaged and the cost of the repair thereof was P1,950.

Julian Adrales y Flores was charged with the crime of serious physical injuries in the Municipal Court of Manila (crim. case No. T-40824). On arraignment he entered a plea of not guilty. At the trial, he moved and was allowed to change his plea of not guilty to one of guilty of a lesser offense or of slight physical injuries through reckless imprudence. The information was accordingly amended.

On 19 December 1951 Antonio C. Martel filed a motion reserving his right to bring a separate civil action against the defendant (Exhibit G), which was granted. On the same date, the court found Julian Adrales y Flores guilty of the crime of slight physical injuries through reckless imprudence and sentenced him to pay a fine of thirty pesos with subsidiary imprisonment in case of insolvency and to pay costs (Exhibit F).

On 17 June 1953 in the Court of First Instance of Manila Antonio C. Martel brought a civil action, which in the criminal case T-40824 had been reserved, against Julian Adrales y Flores and the Golden Taxicab Co., praying that they be ordered to pay him damages in the sum of P13,900, that should the taxicab driver be insolvent the Golden Taxicab Co. be held subsidiarily liable to pay the amount of damages sought to be recovered, and for any other just and equitable relief.

On 6 July 1953 the defendants filed a motion praying that the plaintiff be ordered to attach to the complaint a copy of the judgment convicting Julian Andrales y Flores of the crime of slight physical injuries through reckless imprudence, that the period of answering the complaint be suspended and that five days from receipt of a copy of the judgment be granted them to file their answers. On 11 July 1953 the court denied the motion on the ground that the judgment of conviction was not an actionable document.

On 14 July 1953 the defendants moved for the dismissal of the complaint, for the Golden Taxicab Company had no juridical personality and could not be sued and that the court lacked jurisdiction over the subject matter. On 16 July 1953 the plaintiff objected thereto. On 18 July 1953 the court denied the motion to dismiss and ordered the plaintiff to amend his complaint to include as defendants the persons operating or owning the taxicab involved in the accident.

On 28 July 1953 the plaintiff moved the court to allow the amended complaint impleading as defendant Alfredo B. Zamora, the owner and operator of the taxicab involved in the accident, in lieu of the Golden Taxicab Company. On 5 August 1953 the court granted the motion.

By a motion filed on 11 September 1953 the plaintiff prayed that the defendants be declared in default, which prayer was denied the next day following inasmuch as the defendants' answers had been mailed on time.

On 8 and 19 September 1953, respectively, the defendant Alfredo B. Zamora and the defendant Julian Adrales y Flores filed their answers.

After trial, on 23 December 1955 the court rendered judgment finding that—

* * * the accident which caused the injuries and the damages complained of was due entirely to the negligence of the defendant Julian Adrales. His master or employer, Alfredo B. Zamora, has exercised the diligence of a good father of a family in the selection of his drivers and in adopting ways and means to prevent damage, and should be exempted from any and all liability. * * *

and—

* * * absolving defendant Alfredo B. Zamora, owner and operator of the Golden Taxicab Company, from all liability under the complaint, and ordering his co-defendant Julian Adrales to pay to the plaintiff the sum of P350.00 for loss of one-half month salary, P115.00 for medical expenses, P500.00 for moral damages, P1,950.00 for damages to his automobile, and P500.00 for attorney's fees, or a total of three thousand four hundred fifteen pesos (P3,415.00). With costs against this defendant.

From that part of the judgment which absolves and relieves the defendant Alfredo B. Zamora from any liability, the plaintiff has appealed.

During the pendency of the appeal in the Court of Appeals, on 27 March 1956 the plaintiff-appellant Antonio Martel died (Annex A) and was accordingly substituted in the case by his widow Juana Vda. de Martel and children Enrique, Antonio, Jr., Jose, Rudolfo, Carlos and Ricardo, all surnamed Martel.

The facts alleged in the amended complaint leave no room for doubt that the plaintiff predicated his cause of action against the defendants not upon the provisions of the Civil Code on culpa aquiliana or extra-contractual but upon the provisions of the Revised Penal Code making the owner or operator of the taxicab which caused damages to another subsidiarily liable, for the allegation in paragraph seven of the amended complaint that the driver of the taxicab was charged with and convicted of slight physical injuries through reckless imprudence can have no other meaning than that the cause of action upon which his suit is based arose not from culpa aquiliana or extra-contractual but from the crime committed by the driver of the taxicab who drove it recklessly and as a result of such recklessness the taxicab driven by him bumped the plaintiff's car causing not only damage to it but also physical injuries to the plaintiff who happened to be riding in the car.

The trial court grievously erred in refusing to admit the judgment of conviction of the taxicab driver (Exhibit F).

The view we have taken of the case renders it unnecessary to remand the case for further proceedings, because the taxicab driver who has been ordered to pay the appellant the sum of P3,415 for damages caused to the latter, as itemized in the judgment rendered by the trial court, has not appealed therefrom. Should the defendant Julian

Adrales y Flores be insolvent, as per return of the Sheriff on execution, then the other defendant and appellee, Alfredo B. Zamora, the owner and operator of the taxicab that caused damage to the car of, and physical injuries to, the appellant, is ordered to pay the said amount to the heirs of the late plaintiff-appellant Antonio Martel, who had been substituted by them in this case.

That part of the judgment appealed from is reversed and defendant-appellee Alfredo B. Zamora is declared liable subsidiarily for the amount of the damage sustained and of the injuries suffered by the late appellant, with costs against the appellee.

Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes and Dizon, JJ., concur.

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