

PROSPERO SABIDO AND ASER LAGUNDA, PETITIONERS, VS. CARLOS CUSTODIO, BELEN MACABUHAY CUSTODIO AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-21512. August 31, 1966

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/64d17ab24849/>

CONCEPCION, J.:

Prospero Sabido and Aser Lagunda seek the review by certiorari of a decision of the Court of Appeals, affirming that of the Court of First Instance of Laguna, sentencing the Laguna-Tayabas Bus Co., Nicasio Mudales, and herein petitioners, Prospero Sabido and Aser Lagunda, to jointly and severally indemnify Belen Makabuhay Custodio and her son, Agripino Custodio, Jr., in the sum of P6,000 and to pay the costs of the suit.

The facts are set forth in the decision of the Court of Appeals from which we quote:

"Upon a careful study and judicious examining of the evidence on record, we are inclined to concur in the findings made by the trial court. Here is how the Court a quo analyzed the facts of this case:

'In Barrio Halang, Municipality of Lumban, Province of Laguna, two trucks, one driven by Nicasio Mudales and belonging to Laguna Tayabas Bus Company, and the other driven by Aser Lagunda and owned by Prospero Sabido, going in opposite directions met each other in a road curve. Agripino Custodio, a passenger of LTB bus, who was hanging on the left side as truck was full of passengers was sideswiped by the truck driven by Aser Lagunda. As a result, Agripino Custodio was injured and died (Exhibit A).

'It appears clear from the evidence that Agripino Custodio was hanging on the left side of the LTB Bus. Otherwise, were he sitting inside the truck, he could not have been struck by the six by six truck driven by Aser Lagunda. This fact alone, of allowing Agripino Custodio to hang on the side of the truck, makes the defendant Laguna Tayabas Bus Company liable for damages. For certainly its employees, who are the driver and conductor were negligent. They should not have allowed Agripino Custodio to ride their truck in that manner.

'To avoid any liability, Aser Lagunda and Prospero Sabido throw all the blame on Nicasio Mudales. From the testimony, however, of Belen Makabuhay, Agripino Custodio's widow, we can deduce that Aser Lagunda was equally negligent as Nicasio Mudales. Belen testified that the 6 x 6 truck was running fast when it met the LTB Bus. And Aser Lagunda had time and opportunity to avoid the mishap if he had been sufficiently careful and cautious because the two trucks never collided with each other. By simply swerving to the right side of the road, the 6 x 6 truck could have avoided hitting Agripino Custodio. It is incredible that the LTB was running on the middle of the road when passing a curve. He knows it is dangerous to do so. We are rather of the belief that both trucks did not keep close to the right side of the road so they sideswiped each other and thus Agripino Custodio was injured and died. In other words, both drivers must have driven their trucks not in the proper line and are, therefore, both reckless and negligent'.

"We might state by way of additional observations that the sideswiping of the deceased and his two fellow passengers took place on broad daylight at about 9:30 in the morning of June 9, 1955 when the LTB bus with full

load of passengers was negotiating a sharp curve of a bumpy and sliding downward a slope, whereas the six by six truck was climbing up with no cargoes or passengers on board but for three helpers, owner Sabido and driver Lagunda (tsn. 308-309, Mendoza). Under the above-stated condition, there exists strong persuasion to accept what Belen Makabuhay and Sofia Mesina, LTB passengers, had testified to the effect that the 6 x 6 cargo truck was running at a fast rate of speed (tsn. 15, 74, 175 Mendoza). From the lips of no less than driver Lagunda himself come the testimonial admission that the presence of three hanging passengers located at the left side of the bus was noted when his vehicle was still at a distance of 5 or 7 meters from the bus, and yet despite the existence of a shallow canal on the right side of the road which he could pass over with ease, Lagunda did not care to exercise prudence to avert the accident simply because to use his own language the canal 'is not a passage of trucks.'"

Based upon these facts, the Court of First Instance of Laguna and the Court of Appeals concluded that the Laguna-Tayabas Bus Co. - hereinafter referred to as the carrier - and its driver Nicasio Mudales (none of whom has appealed), had violated the contract of carriage with Agripino Custodio, whereas petitioners Sabido and Lagunda were guilty of a quasi delict, by reason of which all of them were held solidarily liable in the manner above indicated.

Petitioners now maintain: (1) that the death of Agripino Custodio was due exclusively to the negligence of the carrier and its driver; (2) that petitioners were not guilty of negligence in connection with the matter under consideration; (3) that petitioners cannot be held solidarily liable with the carrier and its driver; and (4) that the complaint against petitioners herein should be dismissed.

With respect to the first two (2) points, which are interrelated, it is urged that the carrier and its driver were clearly guilty of negligence for having allowed Agripino Custodio to ride on the running board of the bus, in violation of Section 42 of Act No. 3992, and that this negligence was the proximate cause of Agripino's death. It should be noted, however, that the lower court had, likewise, found the petitioners guilty of contributory negligence, which was as much a proximate cause of the accident as the carrier's negligence, for petitioners' truck was running at a considerable speed, despite the fact that it was negotiating a sharp curve, and, instead of being close to its right side of the road, said truck was driven on its middle portion and so near the passenger bus coming from the opposite direction as to sideswipe a passenger riding on its running board.

The views of the Court of Appeals on the speed of the truck and its location at the time of the accident are in the nature of findings of fact, which we cannot disturb in a petition for review by certiorari, such as the one at bar. At any rate, the correctness of said findings is borne out by the very testimony of petitioner Lagunda to the effect that he saw the passengers riding on the running board of the bus while the same was still five (5) or seven (7) meters away from the truck driven by him. Indeed, the distance between the two (2) vehicles was such that he could have avoided sideswiping said passengers if his truck were not running at a great speed.

Although the negligence of the carrier and its driver is independent, in its execution, of the negligence of the truck driver and its owner, both acts of negligence are the proximate cause of the death of Agripino Custodio. In fact, the negligence of the first two (2) would not have produced this result without the negligence of petitioners' herein. What is more, petitioners' negligence was the last, in point of time, for Custodio was on the running board of the carrier's bus sometime before petitioners' truck came from the opposite direction, so that, in this sense, petitioners' truck had the last clear chance.

Petitioners contend that they should not be held solidarily liable with the carrier and its driver, because the latter's liability arises from a breach of contract, whereas that of the former springs from a quasi-delict. The rule is, however, that

"According to the great weight of authority, where the concurrent or successive negligent acts or omission of

two or more persons, although acting independently of each other, are, in combination, the direct and proximate cause of a single injury to a third person, and it is impossible to determine in what proportion each contributed to the injury, either is responsible for the whole injury, even tho his act alone might not have caused the entire injury, or the same damage might have resulted from the acts of the other tort-feasor x x x." (38 Am. Jur. 946, 947.)

WHEREFORE, the decision appealed from is hereby affirmed, with costs against the petitioners herein.

IT IS SO ORDERED.

Reyes, JBL, Barrera, Dizon, Makalintal, Bengzon, JP, Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.
Regala, J., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.