

SEVERO DEL CASTILLO, PLAINTIFF-APPELLANT, VS. LORENZO JAYMALIN, MANUEL SABIT, AND BITRANCO AND A. L. AMMEN TRANS. CO., INC., DEFENDANTS-APPELLEES.

G.R. No. L-28256. March 17, 1982

Ponente: MELENCIO-HERRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/93536e87dff9/>

MELENCIO-HERRERA, J.:

A direct appeal from the Decision, dated January 25, 1967 , of the Court of First Instance of Sorsogon, Branch I, dismissing this case for Damages (Civil Case No. 1784 below) by reason of plaintiff Severo del Castillo's death.

On June 29, 1960, Mario del Castillo, a deaf-mute, son of plaintiff Severo del Castillo, and a paying passenger of defendant Bicol Transportation Company (Bitranco), operated by A. L. Ammen Transportation Co., Inc. (ALATCO) at Casiguran, Sorsogon, fell upon alighting from Bus No. 624 of said companies and died as a result.

On September 5, 1962 , an action for the recovery of damages for Mario's death was filed by his father, Severo, plaintiff herein, against the driver and conductor of the bus, and the transportation companies. The Complaint alleged that Severo, a widower, was the sole heir.

Defendant transportation companies traversed the complaint by stating that the passenger bus involved was owned by Bicol Transportation Co. alone; that the two companies had always exercised due dili-gence in the selection and supervision of their em-ployees; and that the proximate cause of Mario's death was his recklessness and gross negligence in jumping out of the bus while in motion.

Trial ensued with plaintiff having been able to present his evidence and rest his case. Defend-ants proceeded with the presentation of their wit-nesses until July 9, 1966 when they filed a "Motion for Annulment of Proceedings after February 1, 1965 ", having learned that plaintiff Severo had died on February 1, 1965 , at which time plaintiff had not yet rested his case having done so only on January 28, 1966 . The Court a quo directed plaintiff's counsel to verify the existence of heirs and whether they were "willing to be substituted as parties-plaintiffs."

On August 6, 1966 , plaintiff's counsel filed a "Motion to Admit Amended Complaint" substituting Severo's son-in-law, one Wenceslao Haloc, as party-plaintiff. This was in virtue of a "Deed of Assignment" dated August 13, 1960 , thumbmarked by Severo, and reading as follows:

"KNOW ALL MEN BY THESE PRESENTS:

That I, SEVERO DEL CASTILLO, of age, a widower and a resident of Casiguran, Sorsogon, Philippines, for reasons of my health and old age, do hereby transfer and assigned (sic) and by these presents do hereby assign and transfer unto the said WINCESLAO (sic) HALOC, my son-in-law, of Barrio Storom, Casiguran, Sorsogon, Philippines, my rights, privileges and all its accessory rights as such an heir to me (sic) for and in my behalf (sic) the case I originally instituted for indemnity for the death of my son the late Mario Castillo, who died while a passenger in an Alatco Bus No. 624, June 29, 1960 at about 7:00 P.M. more or less at Barrio Storom, Casiguran, Sorsogon.

That I hereby declare that from this date August 13, 1960 on, my son-in-law Wenceslao Haloc of legal age will be my assignee as aforesaid.

(Sgd.) Thumb mark

SEVERO DEL CASTILLO

Res. Cert. No. A2920570

Issued on July 5, 1960

at Casiguran, Sorsogon"

The Amended Complaint was admitted by the trial Court for lack of objection thereto on August 20, 1966 .

Trial proceeded with defendants closing their evidence on November 25, 1966 .

On January 26, 1967 , the trial Court rendered judgment in defendants' favor dismissing the original and the amended Complaints upon the following ratio-cination:

"x x x Since Severo del Castillo died before the conclusion of this case, this action died with him. Wenceslao Haloc is without personality to continue this case. He is not even an heir of Severo del Castillo."

Wenceslao Haloc appealed as a pauper directly to this Court contending that the Decision is "contrary to law."

Before this instance, it is urged that the trial Court erred:

- "1). In construing the Deed of Assignment as not a deed that transfers any benefit to the transferee.
- 2). In dismissing the case in virtue of the death of Severo del Castillo after the deed of assignment was executed and further still after the evidence testimonial and documentary were already presented."

We find merit in the foregoing contentions.

This is not a case where the provisions of Section 17, Rule 3 of the Rules of Court on "death of a party" are applicable. Rather, it is a situation where plain-tiff, while alive, had assigned his rights to another, in which case, the proper procedure would have been for the transferee to have been substituted for the transferor as plaintiff.[1] The rights of Severo to claim damages for his son were transferable. Severo had transferred his rights as plaintiff to Wenceslao Haloc but after the assignment the case continued in Severo's name and there was no immediate and formal substitution of party plaintiff. This is but a formali-ty, however, and the fact remains that, after the assignment, the substantial plaintiff and real party in interest became Haloc, with Severo as a sort of trustee of whatever fruits the litigation would bring.

It was reversible error, therefore, for the trial Court to have dismissed the case by virtue of Severo's death. The action did not die with him. In point is the following ruling of this Court:

"x x x where an assignable right has been transferred before action brought, the proceeding ought to be instituted in the name of the assignee; and where an assignment is effected pendente lite , it is proper to have the assignee substituted for the original plaintiff. If such substitution should not be effected and the transfer of the right of action should not be brought to the attention of the court, the original plaintiff, if successful in the litigation, would hold the fruits of the action as a sort of trustee for the use and benefit of his assignee. x x x"[2]

Relative to the aspect of damages, the trial Court ruled:

"Common carriers are responsible for the death of their passengers (Articles 1764 and 2206 of the Civil Code). This liability includes the loss of the earning capacity of the deceased. It appears proven that the defendant corporations failed to exercise the diligence that was their duty to observe according to Articles 1733 and 1755.

The conductor was apprised of the fact that Mario del Castillo was deaf and dumb. With this knowledge the conductor should have taken extraordinary care for the safety of the said passenger. In this he failed."

The trial Court then concluded that "under the circumstances obtaining in the case, the plaintiff Severo del Castillo would be entitled to actual and moral damages", but did not determine the amount of damages because it dismissed the case.

Technicality would require a remand of this case to the Court a quo , for a determination of the amount of damages [the total amount of P41,000.00 (P6,000.00 as damages for death, and P35,000.00 for loss of earning capacity), and attorney's fees of P5,000.00, were claimed]. Considering, however, the pendency of this case for 13 years and in order to put an end to the controversy, we determine the damages at P12,000.00 for the death of the victim, without interest, and P2,000.00 for attorney's fees. Loss of earning capacity in the amount of P35,000.00 has not been proven specially considering that the victim was a deaf-mute.

WHEREFORE , the judgment appealed from is hereby reversed, and defendants hereby ordered jointly and severally, to pay Wenceslao Haloc, the amount of P12,000.00 as damages for death, without interest, and P2,000.00 as attorney's fees.

No costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero, and Plana, JJ., concur.

[1]Sec. 20, Rule 3, Rules of Court.

[2]Oria Hermanos y Compañia vs. Gutierrez Hermanos, 52 Phil 156 (1928).

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.