

EDUARDO TUASON, PLAINTIFF AND APPELLANT VS. LUZON STEVEDORING CO., INC., AND JULIAN RAMOS, DEFENDANTS AND APPELLEES.

G.R. No. L-13541. January 28, 1961

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

Early in the morning of April 13, 1953, Eduardo Tuason left Baguio City in a 1952 model Packard car, with three passengers, namely, Olivia de Leon, Francisco de Leon and Manuel de Leon. He passed the Kennon Road Checkpoint at 3:00 o'clock and winged on his way passing the National Toll Road, Camp 6 Toll Gate, 24 minutes later. After paying the toll, he continued slashing through the early morning air so that 5:00 o'clock of that same morning he arrived at a town in Tarlac. There he stopped at a gasoline station to fill up his car's gasoline tank. This took about 15 to 20 minutes. Thereafter, he continued his drive for Manila.

At about the same time Eduardo Tuason left Bagnio City, Julian Ramos, an employee of the Luzon Stevedoring Co., Inc., together with a mechanic, Graciano Bautista, and a laborer, Zoilo Tolentino, left the Company's compound at Guagua, Pampanga, driving one of its trucktrailers for Manaoag, Pangasinan. They passed through the towns of Bacolor, San Fernando, Angeles, Mabalacat, of the province of Pampanga. When they reached the municipality of Bamban, Tarlac, the truck developed some engine trouble. The mechanic, Graciano Bautista, had to clean the carburetor and the gasoline line, which took him about 25 to 30 minutes to finish. Afterwards they proceeded on their way.

At around 5:10 o'clock that same morning at about 75 meters south of the bridge at barrio Cut-Cut of the municipality of Capas, Tarlac, the Packard car driven by Eduardo Tuason and the truck-trailer driven by Julian Ramos collided. As a result of the collision, Eduardo Tuason's left leg was pinned down by the door of his car. After he was extricated from his seat, he was taken to the clinic of Dr. Pineda at Capas, and later, on that same day, brought to the National Orthopedic Hospital in Manila. His companions in the car, who were also injured were, likewise, taken to the clinic at Capas.

On February 22, 1956, or after almost three years from the date of the collision, Eduardo Tuason filed with the Court of First Instance of Manila a complaint against the Luzon Stevedoring Co., Inc., and Julian Ramos for the recovery of damages suffered by him as a result of the collision above referred to. The complaint alleges, among other things, that plaintiff was driving at a moderate speed—35 to 40 kilometers per hour—with headlights on, when the truck-trailer driven by the defendant Julian Ramos struck his car; that the collision completely wrecked plaintiff's car and caused serious physical injuries to him and his companions; and that defendant Julian Ramos was then driving recklessly and negligently at a high rate of speed. Plaintiff, therefore, claims and prays for actual and compensatory damages in the sum of P200,000, moral damages in the amount of P25,000, and exemplary or corrective damages in the sum of P25,000, plus attorney's fees.

The defendants, in their separate answers, denied any liability for damages, alleging by way of special defenses

that the truck trailer driven by the defendant Julian Ramos was travelling at low-speed, with lights on, along the right side of the road when it was hit by the Packard car driven by plaintiff recklessly and negligently at a high speed; that after the accident, both plaintiff and defendant Julian Ramos were charged criminally before the Justice of the Peace Court of Capas, Tarlac, and upon the case being forwarded to the Court of First Instance of the same province, the information as against the defendant Julian Ramos was dismissed; and that the collision was due to the fault and negligence of plaintiff as defendant Julian Ramos exercised due care and diligence in the performance of his duties as driver of the truck-trailer. The defendant company, in addition, alleged that it exercised the care and diligence of a good father of a family in the selection and supervision of Julian as its driver.

At the trial, both parties presented testimonial and documentary evidence. Finding the evidence adduced by plaintiff and his witnesses to be contradictory and unworthy of belief, and holding that plaintiff was travelling at a very high speed and on the wrong side of the road, that is to say, on the left lane facing south, while the truck-trailer driven by the defendant Julian Ramos was travelling at a moderate speed and was almost at a stop before the collision, the trial court, on January 9, 1958, rendered decision, the dispositive part of which reads:

"WHEREFORE, THE Court finds the plaintiff Eduardo Tuason, solely and wholly responsible for the collision which occurred on April 13, 1953, subject matter of the present case, and absolves the defendants Julian Ramos and Luzon Stevedoring Co., Inc., from any liability or responsibility in connection therewith. The court hereby orders plaintiff's claims against the defendants dismissed with costs against the plaintiff."

From this decision, the plaintiff appealed directly to this Court.

After going over the record, we find no reason for rejecting the findings of fact below, justifying the dismissal of plaintiff's claim for damages. The issue being one of credibility, the question of which testimony should be given more credence is best left to the trial judge, who had the advantage of hearing the parties testify and of observing their demeanor on the witness stand.

Briefly stated, plaintiff's version is that while he was driving his new Packard car along the right lane of the road, with lights on and blowing his horn, at a curve about 75 meters south of the bridge in Barrio Cut-Cut, of the municipality of Capas, Tarlac, his car collided with the truck-trailer of the Luzon Stevedoring Company driven without any lights by defendant Julian Ramos; that the collision took place at the middle of the road; that as a result thereof; the two vehicles became attached to and entangled with one another; that the people who were attracted to the scene of the collision had to separate the automobile from the truck-trailer before they could extricate plaintiff from the driver's seat of his car; and that to separate the two vehicles the truck-trailer had to move backwards, with the use of its own power, dragging the automobile, which after being separated from the truck-trailer was also moved backwards.

In support of his complaint, plaintiff himself testified. He contradicted himself, however, in some particulars, and admitted that he was in extreme pain after the collision—and, indeed, must have been unconscious—so that he could not have observed the details of the accident. Considering the other circumstances of the case, which shall hereafter be discussed, we think the trial court was justified in resolving his testimony against him.

Manuel de Leon, one of plaintiff's companions in the car, in an effort to corroborate plaintiff's version and theory of the case, also took the witness stand. The lower court, however, noted from his testimony and demeanor that he was not at all clear about the special circumstances and important details of the accident which an eye-witness would normally notice, recall and remember. He could not, for instance, tell "who moved the trailer nor whether it was moved on its own power or pushed by the people around; he could not even tell or recall on what part of the road the Packard car was. Moreover, this witness could not even recall how wide Cut-Cut bridge is or whether two vehicles could meet and pass each other, safely over the bridge; he could, likewise, not recall whether there

were shoulders and ditches on both sides of the Road at the scene of the collision." Explaining his unreliability as a witness, the trial court made the following observations:

"In the mind of the court, this witness was in a state of shock and light-headed after he recovered consciousness and, as he admitted that he was unconscious for 30 minutes after the collision, he could not to have seen anything' that was done during his state of unconsciousness nor afterwards. The court is convinced that Manuel de Leon was merely accommodating the plaintiff, his friend, when he testified for the reason that he was neither clear nor positive as to his testimony."

Alberto Yandan, a resident of Barrio Cut-Cut, Capas, Tarlac, at the time of the accident, testifying for the plaintiff claims that he saw the collision. He declared, among other things, that he ordered the truck to be moved backward; and that it took thirty minutes to take plaintiff out of the car. He disclaimed knowledge, however, of the identity of the person who moved the truck. It also appears that he was investigated by the police of Capas at 10:00 a.m. of the day of the collision in the presence of the chief of police and the Justice of the Peace. In that investigation, which was later reduced to writing, sworn to and signed by him before the Justice of the Peace, he declared—contrary to his testimony in court—that he was in his house when he heard a crash; that he immediately went downstairs and found that the crash was caused by a collision between a truck and a car; that the driver of the car was badly injured and its three occupants suffered minor injuries; that the car was wrecked while the truck was only slightly damaged; and that he brought one of the injured to the clinic of Dr. Pineda at Capas. He was asked three times in the course of the investigation whether or not he had anything more to say in connection with the collision and in like number of times he answered "no more, sir." For this reason, the trial court found it difficult to believe his testimony and opined that his participation in the matter of the collision was merely to bring one of the injured to the clinic of Dr. Pineda at Capas and nothing else. We are inclined to agree with the lower court, for it has not been explained why he did not, at the time he was investigated, tell the matters he testified to in court, when he admittedly was aware that he was being investigated to bring out everything that he knew of the accident.

Pedro Mallari, another resident of Barrio Cut-Cut, Capas, likewise, testified for plaintiff. This witness admitted on direct and cross-examination that he stayed at the scene of the accident only five minutes, yet he sought to convince the court of facts which could not have happened, and which he could not have seen, during the period. Thus, he said that when he arrived at the scene of the collision, he saw Alberto Yandan, carrying plaintiff Eduardo Tuason while the three car passengers were still inside the automobile. This statement is contrary to the testimonies of plaintiff's other witnesses, namely, Alberto Yandan and Manuel de Leon, who declared that the last person taken out of the car was plaintiff and that it took them some 30 minutes to extricate him from the driver's seat. Witness Mallari also declared that plaintiff's left leg was pinned down by the left bumper of the truck and that when the truck was moved back, the leg was still pinned by the bumper. If such were the case, plaintiff's leg would have been crushed or severed and he would not now have possession and use of both legs. Considering these contradictions and observing that the witness, while testifying, was restless, nervous and uncomfortable and that he was shifting around and could not keep his eyes fixed, the trial court entertained grave doubts concerning the veracity of his testimony. The lower court, we think, was justified in doing so. Evidence, to be worthy of credit, must not only proceed from a credible source, but must, in addition, be credible itself. And by this is meant that it shall be natural, reasonable and probable as to make it easy to believe.

Examining further Pedro Mallari's testimony, we find that there is, indeed, good reason to believe this witness was never at the scene of the collision. He stated that he returned from work around 12 noon to take his lunch; that thereafter he went to the police station of Capas and when he peeped inside he saw the police investigating Alberto Yandan; that he did not listen to the investigation but he knew that concerned the accident which occurred in Barrio Cut-Cut, Capas, that morning; that he did not volunteer to testify nor made known his presence at the

scene of the collision. His declarations are directly contradicted by those of Alberto Yandan who testified that he was inside the police station at 10:00 a.m. and that he (Mallari) was inside the police station and present during the investigation. And had Mallari really been present then, whether inside or outside "the police station, he would certainly have volunteered his testimony, having taken the trouble of going to the police station at the town proper and knowing as he did the subject matter of the police investigation. But he did not do this and instead admitted that he testified in this case after he was approached by Alberto Yandan to do so for plaintiff.

Salvador Baun, chief of police of the municipality of Capas, was another witness for the plaintiff. The trial court, however, from his demeanor on the witness stand and from the long delayed and often evasive answers he gave, was convinced that he was suppressing and hiding the true facts of the case. He admitted that he conducted an investigation of the collision and he testified that in the course of that investigation, he saw evidence that the Packard car driven by plaintiff swerved from the middle of the road to the left lane facing south, thus hitting the truck-trailer. He made such statement in his official report of the accident (Exh. "1"), and the proof of the swerving of the car as reported by him were the skid marks of the tires of the car at the scene of the collision. The record also shows that it was the basis of his report that the criminal case for physical injuries and damage to property thru reckless imprudence filed against both plaintiff and defendant Julian Ramos was dismissed as against the latter. The dismissal was made upon motion of the Provincial Fiscal on the ground that "during a reinvestigation of the case, and as can be seen from the sketch attached to the record prepared by the Chief of Police of Capas, Tarlac, the driver of the truck-trailer, Julian Ramos, the accused, tried his best to avoid the incident; that it is the other driver, Eduardo Tuason, who was at fault in causing the collision; and that the prosecution has no evidence to sustain any criminal action against Julian Ramos."

The evidence for the defendants, on the other hand, showed that the truck-trailer driven by Julian Ramos covered the distance of 50.89 kilometers between Guagua, Pampanga, and Cut-Cut bridge, Capas, Tarlac, in 2 hours and 10 minutes. Subtracting the 30 minutes consumed in fixing the engine trouble that developed on the way, the travelling time was, therefore, 1 hour and 40 minutes. This shows that the truck-trailer ran at an average speed of 30 kilometers per hour on the national highway from Guagua Pampanga, to Cut-Cut bridge, Capas, Tarlac. Upon the other hand, plaintiff drove his car from Baguio City to Cut-Cut bridge in Capas, a distance of 144.22 kilometers, in 2 hours and 10 minutes. Deducting the maximum of 20 minutes it took him to load up gasoline, that leaves a travelling time of 1 hour and 50 minutes. As correctly found by the court below, it is evident from the above facts, which are not disputed, that plaintiff drove his car at great speed and in excess of the speed limits along the national highway.

Plaintiff claims that the truck-trailer, which weighed 10 tons, was travelling at the rate of 60 kilometers per hour when the collision occurred, but if such were the case the car he was driving would have been sent flying, or at least, carried and pushed back by virtue of the truck's momentum and weight. There were, however, no indications on the surface of the road at the scene of the collision showing that the Packard car was carried and dragged by the truck-trailer. Indeed, none of the witnesses testified to this fact. On the contrary, Salvador, Baun, chief of police, and Jesus Baluyot, patrolman, both of Capas, and other witnesses for the defendants testified that the skid marks present at the scene of the collision were those made by the tires of the Packard car. No skid marks made by the tires of the truck-trailer existed or were present at the scene of the collision.

The evidence for the defendants also showed that at the time of the collision, the truck-trailer was on the right lane of the road facing north with the right front wheel of the truck on the shoulder of the road about six inches from the ditch on the right side and that the Packard car was on the left lane of the road going south towards Pampanga. These facts were testified to by the defendant Julian Ramos, his mechanic, Graciano Bautista, Jesus Baluyot and Paciano Atienza, both members of the police force of Capas, Mariano Nacpil, a farmer and civilian guard residing

in Barrio Cut-Cut, and others. Policeman Jesus Baluyot, at the time of the collision, drew a sketch (Exh. 1-A) showing the relative positions of the vehicles, which piece of evidence became the basis of the chief of police's report but which he tried to suppress at the trial of the case. Regarding the testimony of defendants' witnesses, the trial court said—

"The court has observed the conduct and demeanor of the witnesses for the defendants, and noted that they testified in a straightforward manner indicating that they know the subject matter of their testimonies and that they were testifying on facts and circumstances of their own personal knowledge. Defendant Julian Ramos was lengthily cross-examined and there was no divergence in his testimony. Likewise, the mechanic Graciano Bautista, was clear and explicit in his narration of facts. The witnesses for the defendants, Jesus Baluyot and Paciano Atienza, are members of the police force of the Municipality of Capas and they testified on facts and circumstances surrounding the collision between the two vehicles, which they gathered in the course of their official investigation. There is no reason for the court to doubt the testimony of these police officers considering the official positions and the fact that they testified on matters gathered in the performance of their official duties. Moreover, they submitted a report of their investigation to their Chief of Police. Arturo Cabrera, another witness for the defendants is a government employee who testified in regard to his own personal knowledge of the collision in question. He stated that after viewing the scene of the collision and noting that the Packard car involved therein was a hazard to traffic, he telephoned a report to his superior, the District Engineer of Tarlac that he was able to talk to Mr. Epifanio Panopio, Maintenance Engineer who personally viewed the scene of the collision; that after the investigation being conducted by the Police was through he caused the Packard car to be removed upon the instruction of Engineer Panopio. Again, there is no reason for the court to doubt the testimony of this witness. Mariano Nacpil is an old man and a farmer. His demeanor in court was that of a witness testifying to the truth. As a matter of fact, Mariano Nacpil signed a sworn statement, Exh. '8' before the Chief of Police and Justice of the Peace of Capas, Tarlac, on the same day, April 13, 1953, when the collision occurred. His testimony during the trial conforms with his sworn statement appearing on Exhibit '8'."

Plaintiff claims that the truck-trailer and the Packard car were linked together and in order to give room to take plaintiff out of the car, the truck-trailer was moved back, on its own power, across the line at the center of the road and stopped on the right lane facing north carrying the car along with it. The trial court, however, after a close scrutiny of the evidence adduced, rejected the claim, defendants having shown to its satisfaction that the truck's battery and front axle were damaged, the U-bolt broken, and mudguard stuck to the left front wheel. The truck-trailer's weight of ten tons eliminated the possibility of its having been pushed by the people gathered at the scene of the collision, so that the trial court believed that it was the Packard car which was moved back about three feet in order to extricate plaintiff from his seat, some persons stepping on the bumper of the automobile while others pushed it away. The defendant Julian Ramos, whose testimony was found by the court to be credible and straightforward, testified in this regard. This testimony of defendant Julian Ramos, contrary to plaintiff's claim, does not necessarily contradict those of policemen Jesus Baluyot and Paciano Atienza, who declared that the vehicles were not moved during their investigation. Apparently, the vehicles were disengaged before the arrival of the aforementioned policemen, who had to come yet from the town proper. It would certainly have been unnatural and cruel for the people who were there to have waited for them or other authorities before doing anything, considering that plaintiff was painfully pinned by the door of his car and could not be extricated without disconnecting the vehicles.

It might not be amiss to mention here that plaintiff's complaint was filed only after the lapse of almost three years from the date of the accident. This, in itself, is indicative of the weakness of plaintiff's cause of action. And considering the established fact that said plaintiff was really the proximate cause of the accident, we find no valid reason to disturb the decision complained of denying his claim for damages.

In view of the foregoing, the decision appealed from is hereby affirmed, with costs against plaintiff-appellant.
Bengzon, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, and Dizon, JJ., concur.

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