

**DOMINGO DE LA CRUZ, PLAINTIFF AND APPELLANT, VS.  
THEATRICAL ENTERPRISES INC., ET AL, DEFENDANTS AND  
APPELLEES.***G.R. No. L-7089. August 31, 1954*

Ponente: MONTEMAYOR, J.

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The facts in this case based on an agreed statement of facts are simple. In the year 1941 the Northern Theatrical Enterprises Inc., a domestic corporation operated a movie house in Laoag, Ilocos Norte, and among the persons employed by it was the plaintiff DOMINGO DE LA CRUZ, hired as a special guard whose duties were to guard the main entrance of the cine, to maintain peace and order and to report the commission of disorders within the premises. As such guard he carried a revolver. In the afternoon of July 4, 1941, one Benjamin Martin wanted to crash the gate or entrance of the movie house, infuriated by the refusal of plaintiff De la Cruz to let him in without first providing himself with a ticket, Martin attacked him with a bolo. De la Cruz defended himself as best he could until he was cornered, at which moment to save himself he shot the gate crasher, resulting in the latter's death.

For the killing, De la Cruz was charged with homicide in Criminal Case No. 8449 of the Court of First Instance of Ilocos Norte. After a re-investigation conducted by the Provincial Fiscal the latter filed a motion to dismiss the complaint, which was granted by the court in January 1943. On July 8, 1947, De la Cruz was again accused of the same crime of homicide, in Criminal Case No. 431 of the same Court. After trial, he was finally acquitted of the charge on January 31, 1948. In both criminal cases De la Cruz employed a lawyer to defend him. He demanded from his former employer reimbursement of his expenses but was refused, after which he filed the present action against the movie corporation and the three members of its board of directors, to recover not only the amounts he had paid his lawyers but also moral damages said to have been suffered, due to his worry, his neglect of his interests and his family as well in the supervision of the cultivation of his land, a total of P15,000. On the basis of the complaint and the answer filed by defendants wherein they asked for the dismissal of the complaint, as well as the agreed statement of facts, the Court of First Instance of Ilocos Norte after rejecting the theory of the plaintiff that he was an agent of the defendants and that as such agent he was entitled to reimbursement of the expenses incurred by him in connection with the agency (Arts. 1709-1729 of the old Civil Code), found that plaintiff had no cause of action and dismissed the complaint without costs. De la Cruz appealed directly to this Tribunal for the reason that only questions of law are involved in the appeal.

We agree with the trial court that the relationship between the movie corporation and the plaintiff was not that of principal and agent because the principle of representation was in no way involved. Plaintiff was not employed to represent the defendant corporation in its dealings with third parties. He was a mere employee hired to perform a certain specific duty or task, that of acting as special guard and staying at the, main entrance of the movie house to stop gate crashers and to maintain peace and order within the premises. The question posed by this appeal, is whether an employee or servant who in line of duty and while in the performance of the task assigned to him

performs an act which eventually results in his incurring in expenses, caused not directly by his master or employer of his fellow servants or by reason of his performance of his duty, but rather by a third party or stranger' not in the employ of his employer, may recover said damages against his employer.

The learned trial court in the last paragraph of its decision dismissing the complaint said that "after studying many laws or provisions of law to find out what law is applicable to the facts submitted and admitted by the parties has found none and it has no other alternative than to dismiss the complaint." The trial court is right. We confess that we are not aware of any law or judicial authority that is directly applicable to the present case, and realizing the importance and far-reaching effect of a ruling on the subject-matter we have searched, though vainly for judicial authorities and enlightenment. All: the laws and principles of law we have found, as regards master and servants, or employer and employee, refer to cases nor physical injuries, light or serious, resulting in loss of a member of the body or of any one of the senses, or permanent physical disability or even death, suffered in line of duty and in the course of the performance of the duties assigned to the servant or employee, and these cases are mainly governed by the Employer's Liability Mt and the Workmen's Compensation Act. But a case involving damages caused to an employee by a stranger or outsider while said employee was in, the performance of his duties, presents a novel question, which under present legislation we are neither able nor prepared to decide in favor of the employee.

In a case like the present or a similar case of say a driver employed by a transportation company, who while in the course of employment runs over and inflicts physical injuries on or causes the death of a pedestrian; and such driver is later charged criminally in court, one can imagine that it would be to the interest of the employer to give legal help to and defend its employee in order to show that the latter was not guilty of any crime either deliberately or through negligence, because should the employee be finally held criminally liable and he is found to be insolvent, the employer would be subsidiarily liable. That is why, we repeat, it is to the interest of the employer to render legal assistance to its employee. But we are not prepared to say and to hold that the giving of said legal assistance to its employees is a legal obligation. While it might yet and possibly be regarded as a moral obligation, it does not at present count with the sanction of man-made laws.

If the employer is not legally obliged to give, legal assistance to its employee and provide him with a lawyer, naturally said employee may not recover the amount he may have paid a lawyer hired by him.

Viewed from another angle it may be said that the damage suffered by the plaintiff by reason of the expenses incurred by him in remunerating his lawyer, is not caused by his act of shooting to death the gate crasher but rather by the filing of the charge of homicide which made it necessary for him to defend himself with the aid of counsel. Had no criminal charge been filed against him, there would have been no expenses incurred or damage suffered. So the damage suffered by plaintiff was caused rather by the improper filing of the criminal charge, possibly at the instance of the heirs of the deceased gate crasher and by the State through the Fiscal. We say improper filing, judging by the results of the court proceedings, namely, acquittal. In other words, the plaintiff was innocent and blameless. If despite his innocence and despite the absence of any criminal responsibility on his part he was accused of homicide, then the responsibility for the improper accusation may be laid at the door of the heirs of the deceased and the State, and so theoretically, they are the parties that may be held responsible civilly for damages and if this is so, we fail to see how this responsibility can be transferred to the employer who in no way intervened, much less initiated the criminal proceedings and whose only connection or relation to the whole affairs was that he employed plaintiff to perform a specific duty or task, which task or duty was performed lawfully and without negligence.

Still another point of view is that the damages incurred here consisting of the payment of the lawyer's fee did not flow directly from the performance of his duties but only indirectly because there was an efficient, intervening

cause, namely, the filing of the criminal charges. In other words, the shooting to death of the deceased by the plaintiff was not the proximate cause of the damages suffered but may be regarded as only a remote cause, because from the shooting to the damages suffered there was not that natural and continuous sequence required to fix civil responsibility.

In view of the foregoing, the judgment of the lower court is affirmed. No costs.

Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Reyes, J. B. L., JJ., concur.

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