

PRECIOLITA V. CORLISS, PLAINTIFF-APPELLANT, VS. THE MANILA RAILROAD CO., DEFENDANT-APPELLEE.*G.R. No. L-21291. March 28, 1969*

Ponente: FERNANDO, J.

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Youth, the threshold of life, is invariably accompanied by that euphoric sense of well-being, and with reason. The future, bright with promise, looms ahead. One's powers are still to be tested, but one feels ready for whatever challenge may come his way. There is that heady atmosphere of self-confidence, at times carried to excess. The temptation to take risks is there, ever so often, difficult, if not impossible, to resist. There could be then a lessening of prudence and foresight, qualities usually associated with age. For death seems so remote and contingent an event. Such is not always the case though, and a slip may be attended with consequences at times unfortunate, even fatal.

Some such thought apparently was in the mind of the lower court when it dismissed the complaint for recovery of damages filed by plaintiff-appellant, Preciolita V. Corliss, whose husband, the late Ralph W. Corliss, was, at the tender age of twenty-one, the victim of a grim tragedy, when the jeep he was driving collided with a locomotive of defendant-appellee Manila Railroad Company, close to midnight on the evening of February 21, 1957, at the railroad crossing in Balibago, Angeles, Pampanga, in front of the Clark Air Force Base. In the decision appealed from, the lower court, after summarizing the evidence, concluded that the deceased "in his eagerness to beat, so to speak, the on-coming locomotive, took the risk and attempted to reach the other side, but unfortunately he became the victim of his own mis-calculation." [1]

The negligence imputed to defendant-appellee was thus ruled out by the lower court, satisfactory proof to that effect, in its opinion, being lacking. Hence this appeal direct to us, the amount sought in the concept of damages reaching the sum a P282,065.40. An examination of the evidence of record fails to yield a basis for a reversal of the decision appealed from. We affirm.

According to the decision appealed from, there is no dispute as to the following: "In December 1956, plaintiff, 19 years of age, married Ralph W. Corliss, Jr., 21 years of age, * * *; that Corliss, Jr. was an air police of the Clark Air Force Base; that at the time of the accident, he was driving the fatal jeep; that he was then returning in said jeep, together with a P. C. soldier, to the Base; and that Corliss, Jr. died of serious burns at the Base Hospital the next day, while the soldier sustained serious physical injuries and burns." [2]

Then came a summary of the testimony of two of the witnesses for plaintiff-appellant. Thus: "Ronald J. Ennis, a witness of the plaintiff, substantially declared in his deposition, * * *, that at the time of the accident, he was awaiting transportation at the entrance of Clark Field, which was about 40 to 50 yards away from the tracks and that while there he saw the jeep coming towards the Base. He said that said jeep slowed down before reaching the crossing, that it made a brief stop but that it did not stop –dead stop. Elaborating, he declared that while it was slowing down, Corliss, Jr. shifted into first gear and that was what he meant by a brief stop. He also testified that

he could see the train coming from the direction of San Fernando and that he heard a warning but that it was not sufficient enough to avoid the accident." [3] Also: "Virgilio de la Paz, another witness of the plaintiff, testified that on the night of February 21, 1957, he was at the Balibago checkpoint and saw the train coming from Angeles and a jeep going towards the direction of Clark Field. He stated that he heard the whistle of the locomotive and saw the collision. The jeep, which caught fire, was pushed forward. He helped the P. C. soldier. He stated that he saw the jeep running fast and heard the tooting of the horn. It did not stop at the railroad crossing, according to him." [4]

After which reference was made to the testimony of the main witness for defendant-appellee, Teodorico Capin, "who was at the engine at the time of the mishap," and who "testified that before the locomotive, which had been previously inspected and found to be in good condition, approached the crossing, that is, about 300 meters away, he blew the siren and repeated it in compliance with the regulations until he saw the jeep suddenly spurt, and that although the locomotive was running between 20 and 25 kilometers an hour and although he had applied the brakes, the jeep was caught in the middle of the tracks." [5]

1. The above finding as to the non-existence of negligence attributable to defendant-appellee Manila Railroad Company comes to us encased in the armor of what admittedly appears to be a careful judicial appraisal and scrutiny of the evidence of record. It is thus proof against any attack unless sustained and overwhelming. Not that it is invulnerable, but it is likely to stand firm in the face of even the most formidable barrage.

In the more traditional terminology, the lower court judgment has in its favor the presumption of correctness. It is entitled to great respect. After all, the lower court had the opportunity of weighing carefully what was testified to and apparently did not neglect it. There is no affront to justice then if its finding be accorded acceptance, subject of course to the contingency of ultimate reversal if error or errors, substantial in character, be shown in the conclusion thus arrived at. It is a fair statement of the governing principle to say that the appellate function is exhausted when there is found to be a rational basis for the result reached by the trial court.

As was held in a 1961 decision: "We have already ruled that when the credibility of witnesses is the one at issue, the trial court's judgment as to their degree of credence deserves serious consideration by this Court." [6] An earlier expression of the same view is found in *Jai-Alai Corporation v. Ching Kiat*: "After going over the record, we find no reason for rejecting the findings of the court below. The questions raised hinge on credibility, and it is well-settled that in the absence of compelling reasons, its determination 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." [7]

In a 1964 opinion, we adhered to such an approach. Thus: "Nothing in the record suggests any arbitrary or abusive conduct on the part of the trial judge in the formulation of the ruling. His conclusion on the matter is sufficiently borne out by the evidence presented. We are denied, therefore, the prerogative to disturb that finding, consonant to the time-honored tradition of this Tribunal to hold trial judges better situated to make conclusions on questions of fact." [8] On this ground alone we can rest the affirmance of the judgment appealed from.

2. Nor is the result different even if no such presumption were indulged in and the matter examined as if we were exercising original and not appellate jurisdiction. The sad and deplorable situation in which plaintiff-appellant now finds herself, to the contrary notwithstanding, we find no reason for reversing the judgment of the lower court.

This action is predicated on negligence, the Civil Code making clear that whoever by act or omission causes damage to another, there being negligence, is under obligation to pay for the damage done. [9] Unless it could be satisfactorily shown, therefore, that defendant-appellee was guilty of negligence then it could not be held liable. The crucial question, therefore, is the existence of negligence.

The above Civil Code provision, which is a reiteration of that found in the Civil Code of Spain, formerly applicable in this jurisdiction,[10] had been interpreted in earlier decisions. Thus, in *Smith v. Cadwallader Gibson Lumber Co.*,[11] *Manresa* was cited to the following effect: "Among the questions most frequently raised and upon which the majority of cases have been decided with respect to the application of this liability, are those referring to the determination of the damage or prejudice, and to the fault or negligence of the person responsible therefor. These are the two indispensable factors in the obligations under discussion, for without damage or prejudice there can be no liability, and although this element is present no indemnity can be awarded unless arising from some person's fault or negligence."

Negligence was defined by us in two 1912 decisions, *United States v. Juanillo*[12] and *United States v. Barias*[13] Cooley's formulation was quoted with approval in both the *Juanillo* and *Barias* decisions. Thus: "Judge Cooley, in his work on Torts (3d ed.), Sec. 1324, defines negligence to be: 'The failure to observe for the protection of the interests of another person that degree of care, precaution, and vigilance which the circumstances justly demand, whereby such other person suffers injury.'" There was likewise a reliance on *Ahern v. Oregon Telephone Co.*[14] Thus: "Negligence is want of the care required by the circumstances. It is a relative or comparative, not an absolute, term and its application depends upon the situation of the parties and the degree of care and vigilance which the circumstances reasonably require. Where the danger is great, a high degree of care is necessary, and the failure to observe it is a want of ordinary care under the circumstances."

To repeat, by such a test, no negligence could be imputed to defendant-appellee, and the action of plaintiff-appellant must necessarily fail. The facts, being what they are, compel the conclusion that the liability sought to be fastened on defendant-appellee had not arisen.

3. Plaintiff-appellant, in her brief, however, would seek a reversal of the judgment appealed from on the ground that there was a failure to appreciate the true situation. Thus the first three assigned errors are factual in character. The third assigned error could be summarily disposed of. It would go against the evidence to maintain the view that the whistle was not sounded and the brakes not applied at a distance of 300 meters before reaching the crossing

The first two assigned errors would make much of the failure of the lower court to hold that the crossing bars not having been put down and there being no guard at the gate-house, there still was a duty on the part of Corliss to stop his jeep to avoid a collision and that Teodorico Capili, who drove the engine, was not qualified to do so at the time of the accident. For one cannot just single out a circumstance and then confidently assign to it decisive weight and significance. Considered separately, neither of the two above errors assigned would call for a judgment different in character. Nor would a combination of acts allegedly impressed with negligence suffice to alter the result. The quantum of proof required still had not been met. The alleged errors fail of their desired effect. The case for plaintiff-appellant, such as it was, had not been improved. There is no justification for reversing the judgment of the lower court.

It cannot be stressed too much that the decisive considerations are too variable, too dependent in the last analysis upon a common sense estimate of the situation as it presented itself to the parties for us to be able to say that this or that element having been isolated, negligence is shown. The factors that enter the judgment are too many and diverse for us 'to imprison them in a formula sufficient of itself to yield the correct answer to the multi-faceted problems the question of negligence poses. Every case must be dependent on its facts. The circumstances indicative of lack of due care must be judged in the light of what could reasonably be expected of the parties. If the objective standard of prudence be met, then negligence is ruled out.

In this particular case, it would be to show less than fidelity to the controlling facts to impute negligence to,

defendant-appellee. The first three errors assigned certainly do not call for that conclusion.

4. The fourth assigned error is deserving of a more extended treatment. Plaintiff-appellant apparently had in mind this portion of the opinion of the lower court: "The weight of authorities is to the effect that a railroad track is in itself a warning or a signal of danger to those who go upon it, and that those who, for reasons of their own, ignore such warning, do so at their own risk and responsibility. Corliss, Jr., who un-doubtedly had crossed the checkpoint frequently, if not daily, must have known that locomotive engines and trains usually pass at that particular crossing where the accident had taken place." [15]

Her assignment of error, however, would single out not the above excerpt from the decision appealed from but what to her is the apparent reliance of the lower court on *Mestres v. Manila Electric Railroad & Light Co.* [16] and *United States v. Manabat & Pasibi*. [17] In the *Manabat* case, the doctrine announced by this Court follows: "A person in control of an automobile who crosses a railroad, even at a regular road crossing, and who does not exercise that pre-caution and that control over it as to be able to stop the same almost immediately upon the appearance of a train, is guilty of criminal negligence, providing a collision occurs and injury results. Considering the purposes and the general methods adopted for the management of railroads and railroad trains, we think it is incumbent upon one approaching a railroad crossing to use all of his faculties of seeing and hearing. He should approach a railroad crossing cautiously and carefully. He should look and listen and do everything that a reasonably prudent man would do before he attempts to cross the track." The *Mestres* doctrine in a suit arising from a collision between an automobile and a street car is substantially similar. Thus: "It may be said, however, that, where a person is nearing a street crossing toward which a car is approaching, the duty is on the party to stop and avoid a collision who can most readily adjust himself to the exigencies of the case, and where such person can do so more readily, the motorman has a right to presume that such duty will be performed."

It is true, as plaintiff-appellant would now *v. Manila Railroad Co.*, [18] the controlling facts of allege, that there has been a drift away from the apparent rigid and inflexible doctrine thus set forth in the two above cases as evidenced by *Lilius* which, however, are easily distinguishable from what had been correctly ascertained in the present case. Such a deviation from the earlier principle announced is not only true of this jurisdiction, but also of the United States.

This is made clear by Prosser. Speaking of a 1927 decision by Justice Holmes, he had the following to say: "Especially noteworthy in this respect is the attempt of Mr. Justice Holmes, in *Baltimore & Ohio Railway v. Goodman*, to 'lay down a standard once for all, which would require an automobile driver approach-ing a railroad crossing with an obstructed view to stop, look and listen, and if he cannot be sure otherwise that no train is coming, to get out of the car. The basic idea behind this is sound enough: it is by no means proper care to cross a railroad track without taking reasonable precautions against a train, and normally such precautions will require looking, hearing, and a stop, or at least slow speed, where the view is obstructed.'" [19]

Then, barely seven years later, in 1934, came *Pokora v. Wabash Railway*, [20] where, according to Prosser, it being shown that "the only effective stop must be made upon the rail-way tracks themselves, in a position of obvious danger, the court disregarded any such uniform rule, rejecting the 'get out of the car' requirement as 'an uncommon precaution, likely to be futile and sometimes even dangerous, and saying that the driver need not always stop. 'Illustrations such as these, said Mr. Justice Cardozo, 'bear witness to the need for caution in framing standards of behavior that amount to rules of law, * * * Extraordinary situations may not wisely or fairly be subjected to tests or regu-lations that are fitting for the commonplace or normal.'" [21]

What Justice Cardozo announced would merely emphasize what was set forth earlier that each and every case on questions of negligence is to be decided in accordance with the peculiar circumstances that present themselves.

There can be no hard and fast rule. There must be that observance of that degree of care, precaution, and vigilance which the situation demands. Thus defendant-appellee acted. It is undeniable, then that no negligence can rightfully be imputed to it.

What commends itself for acceptance is this conclusion arrived at by the lower court: "Predicated on the testimonies of the plaintiff's witnesses, on the knowledge of the deceased and his familiarity with the setup of the checkpoint, the existence of the tracks; and on the further fact that the locomotive had blown its siren or whistle, which was heard by said witnesses, it is clear that Corliss, Jr. was so sufficiently warned in ad-vance of the oncoming train that it was incumbent upon him to avoid a possible accident and this consisted simply in stopping his vehicle before the crossing and allowing the train to move on. A prudent man under similar circumstances would have acted in this manner. This, unfortunately, Corliss, Jr. failed to do." [22]

WHEREFORE, the decision of the lower court of November 29, 1962 dismissing the complaint, is affirmed. Without pro-nouncement as to costs.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Decision, Record on Appeal, p. 49.

[2] Ibid, pp. 45-46.

[3] Ibid, p. 46.

[4] Ibid, p. 47.

[5] Ibid.

[6] Medina v. Collector of Internal Revenue, L-15113, January 28, 1961. To the same effect is the ruling in Gutierrez v. Villegas, L-17117, July 31, 1963.

[7] L-7969, March 30, 1960.

[8] Arrieta v. National Rice & Corn Corp., L-15645, January 31, 1964. This case was cited with approval in Perez v. Araneta, L-18414, July 15, 1968.

[9] Article 2176.

[10] Article 1902.

[11] 55 Phil. 517, 523 (1930).

[12] 23 Phil. 212, 223 (1912). This case was cited with approval in U.S. v. Reodique (32 Phil. 458 [1915]). The Reodique case in turn was relied upon in People v. Nocum, (77 Phil. 1018 [1947]).

[13] 23 Phil. 434 (1912).

[14] 35 Pac. 549 (1894). Negligence as a concept has a well-understood meaning in both American and Spanish law. It may not be amiss to state that according to the prevailing American doctrine, there is an objective test for negligence which according to 2 Harper and James in their treatise on The Law of Torts (1956), citing the Restatement of Torts is "conduct * * * which falls below the standard established by law for the protection of others against unreasonable risk of harm." (At p. 896). Prosser on Torts, the third edition of which was published in 1964, is of the same mind. (At p. 149). Terry and Edgerton viewed the matter similarly. Cf. Terry, Negligence,

29 Harv. Law Rev. 40 (1915); Edgerton, Negligence, Inadvertence and Indifference, 39 Harv. Law Rev. 849 (1926). The above authors show the influence of Holmes in their definitions of the Law of Negligence. Accord-ing to Holmes in his classic, The Common Law (1881): "Thus the standard represents the general level of moral judgment of the community, what it feels ought ordinarily to be done, and not necessarily what is ordinarily done, although in practice the two would every often ear, come to same thing." (At p. 110).

[15] Decision, Record on Appeal, p. 50.

[16] 32 Phil. 496 (1915).

[17] 28 Phil. 560, 565 (1914).

[18] 59 Phil. 758 (1934). Cf. however. Aguilar v. People (71 Phil. 426), a 1941 decision, where there is a reiteration of the principle "that a person in control of an automobile who approaches a railroad track and desires to cross it is bound to take that precaution and that control over the car as to be able to stop it almost immediately upon the appearance of the train, * * * ." (At p. 428). This decision cited U. S. v. Mananquil, 42 Phil. 90 (1921); U.S. v. Manabat, 28 Phil. 560 (1914), and Yamada v. Manila Railroad Co., 33 Phil. 8 (1915).

[19] Prosser, The Law of Torts, 3rd ed., 210 (1964).

[20] 292 US 98.

[21] Prosser, op. cit., 210-211 (1964).

[22] Decision, Record on Appeal, pp. 50-51.

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