

**JAM TRANSIT, INC., AND LEGAL HEIRS OF MARCELINO M. RETIS,
PLAINTIFFS-APPELLANTS, VS. VICENTE J. JIMENEZ, JIMUEL E.
JANDAYAN, AND RESTITUTO M. GARCIA, DEFENDANTS-APPELLEES.**

Ponente: CARANDANG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f593bf9774fd/>

CARANDANG, J.:

Before Us is an Appeal of the Decision^[1] dated 5 March 2013 of the Regional Trial Court Branch 31 of San Pedro, Laguna which adjudged appellant Jam Transit, Inc. (Jam Transit) and the heirs of its driver Marcelino Retis, Sr. jointly and severally liable to the appellees.

The action arose from a three-way vehicular accident which happened on 6 December 2001 along the South Luzon Expressway (SLEX) involving (1) a passenger bus driven by Marcelino Retis, Sr. and owned by Jam Transit, (2) a delivery van driven by Jimuel Jandayan and owned by Vicente Jimenez, and (3) a jeepney owned and driven by Restituto M. Garcia.

The facts are as follows:

On 6 December 2001 at about 10:00 o'clock in the morning, in the midst of the rain, the three vehicles were cruising along the SLEX. The passenger bus and the delivery van were both on the northbound lane with the passenger bus taking the fast lane while the delivery van was traveling in the middle lane. On the other hand, the jeepney was cruising on the opposite lane bound for Batangas. On board the bus were the driver Marcelino Retis, Sr., and at least fourteen passengers. Along with Jimuel Jandayan in the delivery van was truck helper Richard Afafe. Riding in the jeepney driven by Restituto Garcia were Lupo Punzalan, who was seated in front and Felix Almendras, who was seated at the back. Collision occurred between the bus and the van as a result of which the van zigzagged its way to the right shoulder of the lane, hit a concrete post thereat and rested on its side. On the other hand, the bus overshot the center island of the SLEX, crossed to the southbound lane and fell on its side and was hit by the jeepney approaching from the opposite direction. As a result of the accident, passenger bus driver Marcelino Retis, Sr. died while sixteen others were physically injured including the fourteen bus passengers, Lupo Punzalan (the passenger of the jeepney) and Jimuel Jandayan (the driver of the delivery van). All three vehicles also sustained damages.^[2]

As a result, the parties involved in the accident filed cases against each other. Civil Case No. SPL-0780 was filed by Jam Transit and the heirs of Marcelino Retis, Sr. against Vicente Jimenez, Jimuel Jandayan and Restituto Garcia while Civil Case No. SPL-0803 was filed by Vicente Jimenez and Jimuel Jandayan against Jam Transit. Upon Jam Transit's motion, the two cases were consolidated.

Jam Transit claimed that the passenger bus was moderately and cautiously driven by its authorized driver Marcelino Retis, Sr. on the proper side of the road for Manila when the van owned by Vicente Jimenez and driven recklessly and negligently by Jimuel Jandayan, also north bound, without giving any appropriate signs and signals, suddenly cut through the right and then smashed the bus. Notwithstanding the sudden application of breaks, driver Marcelino Retis Sr., lost control and the bus crossed to the center island of the highway. Without

taking any precautions and having seen what happened, one Restituto M. Garcia who was on the other lane, in control and in operation of the jeepney instantly caused his vehicle to hit and crush against the passenger bus. As a consequence, Marcelino Retis, Jr. instantaneously died while fourteen passengers of the passenger bus sustained serious physical injuries.

Appellees Vicente Jimenez and Jimuel Jandayan countered that it was because of Jam Transit's gross failure to exercise the required diligence of a good father of a family in the selection and supervision of its employees that its driver Marcelino Retis, Sr. drove the passenger bus recklessly and imprudently on 6 December 2001. At a fast speed and in total disregard of the traffic rules and regulations, Marcelino Retis, Sr. suddenly bumped the rear portion of the delivery van which was being carefully driven by Jimuel Jandayan. As a result of the impact, the delivery van swerved to the right side of the road and bumped a concrete post resulting to a big damage to the delivery van and physical injuries to its driver. In the meantime, the passenger bus swerved to the left side of the road and crossed the center island and thereafter collided with the jeepney which was passing on the opposite lane.

On the other hand, appellee Garcia countered that the accident was due to the recklessness and want of care of the driver of the passenger bus and that the direct and proximate result of the accident was the collision of the passenger bus and the delivery van. As a result, the driver of the passenger bus lost control and crossed the center island of the highway and collided with the jeepney driven by appellee Garcia. Garcia added that he was at that time exercising due diligence and utmost care and in complete control of the jeepney when the passenger bus suddenly and unexpectedly crossed from the other side of the highway and unavoidably hit him.

On 5 March 2013, the trial court issued a Decision in favor of appellees Jimenez, Jandayan and Garcia and against Jam Transit and the heirs of Marcelino Retis, Sr. Its dispositive portion states:

“WHEREFORE, premises considered, judgment is hereby rendered finding Marcelino Retis, Sr. negligent and holding his heirs and employer Jam Transit Inc. jointly and severally liable as follows:

1. To Vicente Jimenez, actual damages in the total amount of P50,968.00;
2. To Jimuel Jandayan, actual damages of P419.00;
3. To Vicente Jimenez and Jimuel Jandayan, attorney's fees of P25,000.00;
4. To Restituto Garcia, temperate damages of P20,000.00 and attorney's fees of P20,000.00; and
- 5 Costs of suit.

SO ORDERED.”[3]

The trial court ruled that the negligence of the bus driver Marcelino Retis Sr. was the direct and proximate cause of the accident. It agreed with the version of the driver of the delivery van that it was the passenger bus which rammed the delivery van which caused the latter to zigzag to the right direction until it hit a concrete post. According to the trial court, the fact that the bus overshot, crossed the center island and fell on its side in the opposite lane of the SLEX shows that the passenger bus was dangerously running at high speed in disregard of the weather condition. As to jeepney driver, the trial court held that the overshooting and crossing over of the passenger bus to the opposite lane of the SLEX was a totally unforeseen event. And lacking any proof that the jeepney driver had the last clear chance to avoid the collision between the jeepney and the passenger bus, it was the bus' overshooting and crossing to the opposite lane that was the direct and proximate cause of the collision between the passenger bus and the jeepney.

Hence, the present petition wherein appellants Jam Transit and the heirs of Marcelino Retis Sr. assigned the

following errors:

I

THE TRIAL COURT ERRED IN NOT FINDING THAT IT WAS THE ISUZU ELF ALUMINUM VAN DRIVER'S RECKLESSNESS, FAULT AND NEGLIGENCE THAT CAUSED THE COLLISION.

II

THE TRIAL COURT ERRED IN ORDERING THE PLAINTIFFS-APPELLANTS TO PAY DAMAGES TO THE DEFENDANTS-APPELLANTS.[4]

The appellants argued that the direct and proximate cause of the accident was the sudden and reckless cutting through by the delivery van on the lane of the passenger bus without any prior signal.

We do not agree.

A careful and thorough examination of the records supports the finding of the trial court that it was Jam Transit's driver Marcelino Retis Sr.'s negligence in driving the passenger bus which was proximate cause of the accident. The trial court, in giving credence to version of the appellees Jimenez and Jandayan, enumerated the grounds in finding negligence on the driver of the passenger bus:

“a.) The police report prepared by SPO4 Dejan is an official record of the incident, made in the performance of the police officers' duty and as such constitutes a prima facie evidence of the facts therein stated. Said police report, based on investigation conducted on the scene immediately after the incident, at once spoke of the bus as the one that bumped the van from behind. The genuineness and due execution of the report was not disputed, nor the presumption of regularity assailed. To this, we can add, that the person from whom the investigator gathered this information uttered the information immediately after a startling occurrence when the mind had not seen any reason yet to lie or fabricate. It is also worth noting that it was JTI's employee Jerry Cruz who fetched and brought the investigator to the scene of the accident where he took pictures of the damaged vehicles and conducted an investigation. For all these reasons, the report is entitled to weight and credence.

b.) The version that the van suddenly cut the bus the bus' path and in the process rammed or sideswiped its left rear portion against the right front portion of the bus near its door is not consistent with the physical evidence, or the conditions of the bus and the van as depicted in the pictures. If indeed the van rammed its body against the front portion of the bus, this part of the van would have sustained dents or at least be stained with the paint of the bus. The van has neither such dent on its body nor traces of the bus' paint. Its aluminum body went out of its form as shown in the pictures but there were no dents or visible signs on the left portion of its body to mark the point of sideswiping with the bus.

c.) On the contrary, the dents on the van were on its lower and upper left rear corners, which could be sustained only if the van was bumped from behind by a tall vehicle like the bus. The dents on the van could never be sustained by the van ramming against the bus, unless the van was running on its rear gear.

d.) Noticeably, these dents on the left corner of the rear part of the van correspond to the damaged right signal light of the bus near its bumper. The dents on the lower left rear portion of the van and the damage to the right signal light of the bus on its bumper reveal the point of impact, i.e., the right front portion of the bus' bumper hit the van's left corner rear portion.

e.) After the collision, the van zigzagged and veered towards the right shoulder of the lane, while the bus veered toward the center island to its left. This is consistent with the van's claim that it was traveling on the right outer lane of the SLEX when it was suddenly bumped from its left rear by the bus. That the van was thrown to the right is inconsistent with JTI's claim that from the outer lane, the van cut the bus' path and

rammed the rear left portion of its body against the bus left front portion. Because if the van was at that motion, its tendency would have been to be thrown to the middle island and not on the right side shoulder of the expressway.

f.) The fact that the bus overshot the center island and crossed over to the southbound portion of the expressway after the impact reveals that it was running at high speed, in disregard of the weather condition. Undisputedly (sic), it was raining and it behooved the bus driver to regulate his speed even if he was driving on the expressway.”[5]

Indeed, it was the negligence of the bus driver which was the immediate and proximate cause of the collision and the eventual damages. The locations of the damaged portions of both the passenger bus and the delivery van clearly reveal that the right front portion of the bus rammed into the left rear portion of the delivery van. The physical evidence noted by the trial court in “b”, “c” and “d” belies the theory of Jam Transit that the delivery van cut through the lane of the bus. Appellants' version that the delivery van suddenly cut through the passenger bus' lane and bumped the passenger bus is contrary to normal course of events. If such was the case, the delivery van could not have veered towards the right shoulder of the northbound lane of the SLEX. Instead, it should have been thrown towards the center island. In this case, the trajectories of both the passenger bus (leftward) and delivery van (rightward) after their impact suggests that it was the passenger bus which swerved into the right lane and bumped the delivery van.

Negligence was defined and described by the Supreme Court in *Layugan vs. Intermediate Appellate Court*,[6] thus:

" . . . Negligence is the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs, would do, or the doing of something which a prudent and reasonable man would not do (Black's Law Dictionary, Fifth Edition, 930), or as Judge Cooley defines it, '(T)he 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.' (Cooley on Torts, Fourth Edition, vol. 3, 265).

In *Picart vs. Smith* (87 Phil 809, 813), decided more than seventy years ago but still a sound rule, (W)e held:

The test by which to determine the existence of negligence in a particular case may be stated as follows: Did the defendant in doing the alleged negligent act use that (reasonable care and caution which an ordinarily prudent person would have used in the same situation?) If not, then he is guilty of negligence. The law here in effect adopts the standard supposed to be supplied by the imaginary conduct of the discreet paterfamilias of the Roman law. . . ."

What could have reasonably caused the bus driver's lack of concentration was his lack of sleep prior to day of the accident. His wife testified that on the night prior to accident, he managed to sleep for only two hours:

“q. Particularly in the evening of December 5, 2001 that was the evening before his death because he died on December 6, 2001 in the morning, what time did he arrive at your house from work?

a. 11:00 o'clock in the evening.

q. Upon arriving in your house, did he go to some other place on that particular night?

a. He did not leave anymore, sir.

q. What did he do in your house when he arrived at 11:00 o'clock in the evening?

a. He woke me up and we ate together and after that we watched TV, sir.

q. How long did you watch TV after you had dinner?

a. At 12:00 o'clock midnight we slept, sir.

q. What time the next day did your husband wake up?

a. 2:00 o'clock in the morning, sir.

q. After preparing himself for work, he proceeded to Jam Transit station, is that correct?

a. Yes, sir.

q. In other words, he had about two (2) hours sleep that night?

a. Yes, sir."

As regards the collision between the passenger bus and the jeepney, We likewise affirm the ruling of the trial court that the jeepney driver is without any fault in such collision. It was not proven by the appellants that the jeepney driver had the last clear chance to avoid the said collision. "Last clear chance" is a doctrine in the law of torts which states that the contributory negligence of the party injured will not defeat the claim for damages if it is shown that the defendant might, by the exercise of reasonable care and prudence, have avoided the consequences of the negligence of the injured party. In such cases, the person who had the last clear chance to avoid the mishap is considered in law solely responsible for the consequences thereof.[7]

The appellants failed to substantiate their allegation that the jeepney driver had the last clear chance to stop and avoid the collision of the jeepney and the passenger bus. Indeed, the overshooting of the passenger bus and its sudden crossing over to the opposite lane where the jeepney was then cruising is a wholly unexpected and totally unforeseen event.

Verily, it was the negligence of the bus driver to exert the necessary care and prudence to avoid the accident which was the proximate cause of the accident.

Under Article 2180[8] of the Civil Code, Jam Transit, as employer of Marcelino Retis Sr., is also presumed negligent. The presumption that it is negligent flows from the negligence of its employee.[9] Thus, the employer is directly and primarily liable for the resulting damages. The only defense is that it exercised all the diligence of a good father of a family in the selection and supervision of its employees.[10] As explained by the Supreme Court in *Manliclic vs. Calaunan*,[11]

"Under Article 2180 of the New Civil Code, when an injury is caused by the negligence of the employee, there instantly arises a presumption of law that there was negligence on the part of the master or employer either in the selection of the servant or employee, or in supervision over him after selection or both. The liability of the employer under Article 2180 is direct and immediate; it is not conditioned upon prior recourse against the negligent employee and a prior showing of the insolvency of such employee. Therefore, it is incumbent upon the private respondents to prove that they exercised the diligence of a good father of a family in the selection and supervision of their employee."

A perusal of the Answer of Jam Transit does not show that it alleged, much less, proved this possible defense. The trial court was thus correct in holding it to be directly and primarily liable to the resulting damages. The damages awarded to Jimenez and Jandayan on the basis of their Complaint in Civil Case No. SPL-0803 filed against Jam Transit are duly proven. The award of damages to Restituto Garcia by way of his counterclaim in Civil Case No. SPL-0780 is also proper and with legal basis.

WHEREFORE, premises considered, the instant petition is DENIED for lack of merit. The assailed Decision is

AFFIRMED but with MODIFICATION deleting the liability of the heirs of Retis, Sr. for lack of legal basis.

SO ORDERED.

Barza, and Reyes-Carpio, JJ., concur.

[1] Rollo, pp. 47-57.

[2] Decision, p. 3., Rollo, p. 49.

[3] Id., p. 57

[4] Ibid., p. 64.

[5] Decision, p. 7, Rollo, p. 53.

[6] 167 SCRA 363 [1988].

[7] George McKee vs. Intermediate Appellate Court, G.R. No. 68102. July 16, 1992.

[8] Article 2180. xxx. Employers shall be held liable for the damages caused by employees and household helper acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry. xxx.

[9] Ibid.

[10] Ibid.

[11] G.R. No. 150157. January 25, 2007.

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.