

**THE MUNICIPALITY OF SAN JUAN, METRO MANILA, PETITIONER, VS.
THE HON. COURT OF APPEALS, LAURA BIGLANG-AWA,
METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM (MWSS),
AND KWOK CHEUNG, RE...**

G.R. NO. 121920. August 09, 2005

Ponente: GARCIA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-121920/>

GARCIA, J.:

In this appeal by way of a petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Municipality of San Juan urges us to annul and set aside the decision dated 08 September 1995[1] of the Court of Appeals in CA-G.R. CV No. 38906, affirming with modification an earlier decision of the Regional Trial Court at Pasig City in an action for damages thereat commenced by private respondent Laura Biglang-awa against, among others, the herein petitioner.

The material facts are not at all disputed:

Under a "Contract For Water Service Connections"[2] entered into by and between the Metropolitan Waterworks and Sewerage System (MWSS) and Kwok Cheung as sole proprietor of K.C. Waterworks System Construction (KC, for short), the former engaged the services of the latter to install water service connections. Article 11 (Scope of Work), paragraph 2.01 of the agreement provides:

2.01 The CONTRACTOR agrees to install water service connections, transfer location of tapping to the nearest main, undertake separation of service connection, change rusted connections, within the service area of the MWSS specified in each job order covered by this Contract, from the water main up to the installation of the verticals. Tapping of the service pipe connection and mounting of water meter shall be undertaken exclusively or solely by the MWSS;

On 20 May 1988, KC was given a Job Order by the South Sector Office of MWSS to conduct and effect excavations at the corner of M. Paterno and Santolan Road, San Juan, Metro Manila, a national road, for the laying of water pipes and tapping of water to the respective houses of water concessionaires.

That same day, KC dispatched five (5) of its workers under Project Engineer Ernesto Battad, Jr. to conduct the digging operations in the specified place. The workers installed four (4) barricades made up of two-inch thick GI pipes welded together, 1.3 meters wide and 1.2 meters high, at the area where the digging is to take place. The digging operations started at 9 o'clock in the morning and ended at about 3 o'clock in the afternoon. The workers dug a hole one (1) meter wide and 1.5 meters deep, after which they refilled the excavated portion of the road with the same gravel and stone excavated from the area. At that time, only ¼ of the job was finished in view of the fact that the workers were still required to re-excavate that particular portion for the tapping of pipes for the water connections to the concessionaires.

Meanwhile, between 10 o'clock and 11 o'clock in the evening of 31 May 1988, Priscilla Chan was driving her

Toyota Crown car with Plate No. PDK 991 at a speed of thirty (30) kilometers per hour on the right side of Santolan Road towards the direction of Pinaglabanan, San Juan, Metro Manila. With her on board the car and seated on the right front seat was Assistant City Prosecutor Laura Biglang-awa. The road was flooded as it was then raining hard. Suddenly, the left front wheel of the car fell on a manhole where the workers of KC had earlier made excavations. As a result, the humerus on the right arm of Prosecutor Biglang-awa was fractured. Thereupon, Priscilla Chan contacted Biglang-awa's husband who immediately arrived at the scene and brought his wife to the Cardinal Santos Hospital.

Dispatched to the scene of the accident to conduct an investigation thereof, Pfc. Felix Ramos of the Traffic Division of the San Juan Police Station, upon arriving thereat, saw Priscilla Chan's car already extracted from the manhole and placed beside the excavated portion of the road. According to this police officer, he did not see any barricades at the scene when he arrived less than an hour later. A Traffic Accident Investigation Report[3] was thereafter prepared and signed by Pfc. Ramos.

At the hospital, the attending physician, after having performed a close reduction and application of abduction splint on Biglang-awa, placed a plastic cast on her right arm. Barring complications, the injury she suffered was expected to heal in four (4) to six (6) weeks, although she must revisit her doctor from time to time for check-up and rehabilitation. After some time, the plastic cast was removed. Biglang-awa sustained no deformity and no tenderness of the area of the injury but she could not sleep on her right side because she still felt pain in that portion of her body. A Medical Certificate[4] on her injuries was issued by Dr. Antonio Rivera.

Consequent to the foregoing incident, Biglang-awa filed before the Regional Trial Court at Pasig, Metro Manila a complaint for damages against MWSS, the Municipality of San Juan and a number of San Juan municipal officials.

Later, Biglang-awa amended her complaint twice. In her second amended complaint, she included KC as one of the defendants.

After due proceedings, the trial court rendered judgment in favor of Biglang-awa adjudging MWSS and the Municipality of San Juan jointly and severally liable to her. Dated 29 February 1992, the decision[5] dispositively reads in full, thus:

WHEREFORE, foregoing considered, judgment is hereby rendered declaring the Municipality of San Juan, Metro Manila and the Metropolitan Waterworks and Sewerage System jointly and severally liable to the plaintiff [Biglang-awa]. Both defendants are ordered to pay plaintiff the amounts of:

(a) P18,389.55, for actual damages suffered by the plaintiff;

(b) P15,000.00, for moral damages;

(c) P10,000.00, for exemplary damages;

(d) P5,000.00, for attorney's fees; and

(e) to pay the costs.

SO ORDERED.

Unable to accept the judgment, both Biglang-awa and the Municipality of San Juan went to the Court of Appeals via ordinary appeal under Rule 41 of the Rules of Court, which appeal was thereat docketed as CA-G.R. CV No. 38906.

As stated at the outset hereof, the appellate court, in a decision dated 08 September 1995, affirmed with

modification that of the trial court, to wit:

IN THE LIGHT OF ALL THE FOREGOING, the Decision appealed from is AFFIRMED but modified as follows:

- The Appellees KC and MWSS and the Appellant San Juan are hereby ordered to pay, jointly and severally, to [Biglang-awa] the amounts of P50,000.00 by way of moral damages, P50,000.00 by way of exemplary damages and P5,000.00 by way of attorney's fees, without prejudice to the right of the Appellee MWSS for reimbursement from the Appellee KC under the Contract, Exhibit "3-MWSS":
- The counterclaims of the Appellees and Appellant San Juan and the cross-claim of the latter are DISMISSED. Without pronouncement as to costs.

SO ORDERED. (Words in bracket supplied).

Therefrom, petitioner Municipality of San Juan came to this Court thru the present recourse, on its submissions that:

I.

THE RESPONDENT APPELLATE COURT HAS DECIDED A QUESTION OF SUBSTANCE NOT HERETOFORE DECIDED BY THE SUPREME COURT.

II.

THE RESPONDENT APPELLATE COURT HAS DECIDED A QUESTION PROBABLY NOT IN ACCORD WITH THE LAW AND JURISPRUDENCE.

With no similar recourse having been taken by the other parties, the Court shall limit itself to the liability or non-liability of petitioner municipality for the injury sustained by Biglang-awa.

In denying liability for the subject accident, petitioner essentially anchored its defense on two provisions of laws, namely: (1) Section 149, [1][z] of Batas Pambansa Blg. 337, otherwise known as the Local Government Code of 1983; and (2) Section 8, Ordinance 82-01, of the Metropolitan Manila Commission.

Petitioner maintains that under Section 149, [1][z] of the Local Government Code,[6] it is obliged to provide for the construction, improvement, repair and maintenance of only municipal streets, avenues, alleys, sidewalks, bridges, parks and other public places. Ergo, since Santolan Road is concededly a national and not a municipal road, it cannot be held liable for the injuries suffered by Biglang-awa on account of the accident that occurred on said road.

Additionally, petitioner contends that under Section 8, Ordinance No. 82-01, of the Metropolitan Manila Commission, which reads:

In the event of death, injury and/or damages caused by the non-completion of such works and/or failure of one undertaking the work to adopt the required precautionary measures for the protection of the general public or violation of any of the terms or conditions of the permit, the permittee/excavator shall assume fully all liabilities for such death, injury or damage arising therefrom. For this purpose, the excavator/permittee shall purchase insurance coverage to answer for third party liability,

only the Project Engineer of KC and MWSS can be held liable for the same accident.

The petition must have to be denied.

Jurisprudence[7] teaches that for liability to arise under Article 2189[8] of the Civil Code, ownership of the roads,

streets, bridges, public buildings and other public works, is not a controlling factor, it being sufficient that a province, city or municipality has control or supervision thereof. This, we made clear in *City of Manila vs. Teotico, et al*[9]:

At any rate, under Article 2189 of the Civil Code, it is not necessary for the liability therein established to attach that the defective roads or streets belong to the province, city or municipality from which responsibility is exacted. What said article requires is that the province, city or municipality have either "control or supervision" over said street or road. x x x

It is argued, however, that under Section 149, [1][z] of the Local Government Code, petitioner has control or supervision only over municipal and not national roads, like Santolan Road.

Sadly, petitioner failed to take note of the other provisions of Section 149 of the same Code, more particularly the following:

Section 149. Powers and Duties. - (1) The sangguniang bayan shall:

(bb) Regulate the drilling and excavation of the ground for the laying of gas, water, sewer, and other pipes; the building and repair of tunnels, sewers, drains and other similar structures; erecting of poles and the use of crosswalks, curbs and gutters therein, and adopt measures to ensure public safety against open canals, manholes, live wires and other similar hazards to life and property, and provide just compensation or relief for persons suffering from them; (Underscoring supplied)

Clear it is from the above that the Municipality of San Juan can "regulate" the drilling and excavation of the ground for the laying of gas, water, sewer, and other pipes within its territorial jurisdiction.

Doubtless, the term "regulate" found in the aforequoted provision of Section 149 can only mean that petitioner municipality exercises the power of control, or, at the very least, supervision over all excavations for the laying of gas, water, sewer and other pipes within its territory.

We must emphasize that under paragraph [1][bb] of Section 149, *supra*, of the Local Government Code, the phrases "regulate the drilling and excavation of the ground for the laying of gas, water, sewer, and other pipes", and "adopt measures to ensure public safety against open canals, manholes, live wires and other similar hazards to life and property", are not modified by the term "municipal road". And neither can it be fairly inferred from the same provision of Section 149 that petitioner's power of regulation vis-à-vis the activities therein mentioned applies only in cases where such activities are to be performed in municipal roads. To our mind, the municipality's liability for injuries caused by its failure to regulate the drilling and excavation of the ground for the laying of gas, water, sewer, and other pipes, attaches regardless of whether the drilling or excavation is made on a national or municipal road, for as long as the same is within its territorial jurisdiction.

We are thus in full accord with the following pronouncements of the appellate court in the decision under review:

While it may be true that the Department of Public Works and Highways may have issued the requisite permit to the Appellee KC and/or concessionaires for the excavation on said road, the Appellant San Juan is not thereby relieved of its liability to [Biglang-awa] for its own gross negligence. Indeed, Evangelina Alfonso, the witness for the Appellant San Juan unabashedly [sic] admitted, when she testified in the Court *a quo*, that even if the Department of Public Works and Highways failed to effect the requisite refilling, the Appellant San Juan was mandated to undertake the necessary precautionary measures to avert accidents and insure the safety of pedestrians and commuters:

x x x

The [petitioner] cannot validly shirk from its obligation to maintain and insure the safe condition of the road

merely because the permit for the excavation may have been issued by a government entity or unit other than the Appellant San Juan or that the excavation may have been done by a contractor under contract with a public entity like the Appellee MWSS.

Neither is the [petitioner] relieved of liability based on its purported lack of knowledge of the excavation and the condition of the road during the period from May 20, 1988 up to May 30, 1988 when the accident occurred. It must be borne in mind that the obligation of the [petitioner] to maintain the safe condition of the road within its territory is a continuing one which is not suspended while a street is being repaired (Corpus Juris Secundum, Municipal Corporations, page 120). Knowledge of the condition of the road and the defects and/or obstructions on the road may be actual or constructive. It is enough that the authorities should have known of the aforesaid circumstances in the exercise of ordinary care (City of Louisville versus Harris, 180 Southwestern Reporter, page 65). In the present recourse, Santolan Road and the Greenhills area coming from Ortigas Avenue going to Pinaglabanan, San Juan, Metro Manila is a busy thoroughfare. The gaping hole in the middle of the road of Santolan Road could not have been missed by the authorities concerned. After all, the [petitioner] San Juan is mandated to effect a constant and unabated monitoring of the conditions of the roads to insure the safety of motorists. Persuasive authority has it that:

It is the duty of the municipal authorities to exercise an active vigilance over the streets; to see that they are kept in a reasonably safe condition for public travel. They cannot fold their arms and shut their eyes and say they have no notice. (Todd versus City of Troy, 61 New York 506). (Words in bracket supplied).

Nor can petitioner seek shelter on Section 8 of Ordinance 82-01 of the Metropolitan Manila Commission.

Concededly, Section 8 of the Ordinance makes the permittee/excavator liable for death, injury and/or damages caused by the non-completion of works and/or failure of the one undertaking the works to adopt the required precautionary measures for the protection of the general public. Significantly, however, nowhere can it be found in said Ordinance any provision exempting municipalities in Metro Manila from liabilities caused by their own negligent acts. Afortiori, nothing prevents this Court from applying other relevant laws concerning petitioner's liability for the injuries sustained by Biglang-awa on that fateful rainy evening of 31 May 1988.

WHEREFORE, the instant petition is DENIED and the assailed decision of the appellate court AFFIRMED.

Costs against petitioner.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, and Carpio Morales, JJ., concur.
Corona, J., on official leave.

[1] Penned by then Associate Justice (now a member of this Court) Romeo J. Callejo, Sr., with Associate Justices Pacita Cañizares-Nye and Delilah Vidallon-Magtolis, concurring; Rollo, pp. 30-49.

[2] Original Records, p. 21.

[3] Records, "Folder of Exhibits," pp. 3-5.

[4] Records, "Folder of Exhibits," p.1.

[5] CA Rollo, pp. 43-50.

[6] Section 149. Powers and Duties. - (1) The sangguniang bayan shall:

(z) Provide for the construction, improvement, repair and maintenance of municipal streets, avenues, alleys, sidewalks, bridges, parks and other public places, and regulate the use thereof, and, and prohibit the construction

or placing of obstacles or encroachments on them; (Underscoring supplied)

[7] *City of Manila vs. Teotico, et al.*, 130 Phil. 244 [1968], *Jimenez vs. City of Manila, et al.*, 150 SCRA 510 [1987], *Guilatco vs. City of Dagupan, et al.*, 171 SCRA 382 [1989].

[8] Article 2189. Provinces, cities and municipalities shall be liable for damages for the death of, or injuries suffered by, any person by reason of the defective condition of roads, streets, bridges, public buildings, and other public works under their control or supervision. (Emphasis supplied)

[9] 130 Phil. 244, 250 [1968].

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.