

**FELICIDAD FRANCISCO, PLAINTIFF AND APPELLANT, VS.
CARMELINO DE LA SERNA AND SOUTHERN MOTORS, INC.,
DEFENDANTS AND APPELLEES.***G.R. No. 12245. August 31, 1959*

Ponente: LABRADOR, J.

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This is an appeal from a judgment of the Court of First Instance of Negros Occidental, Hon. Jose F. Fernandez, presiding, dismissing the action that plaintiff-appellant instituted to recover from the defendants-appellees damages alleged to have been caused to her, in the sum of P5,000, for breach of contract of carriage, plaintiff-appellant alleging in her complaint that while embarked in a truck operated by defendant-appellee Carmelino de la Serna, the said truck met with an accident or collided with a truck owned by the Southern Motors, Inc., by reason of which collision she suffered physical injuries.

The court below found after trial that the truck of Carmelino de la Serna in which plaintiff-appellant was riding was already at a complete stop when another truck bearing plate No. A-659, driven by Vicente Fernandez, came zig-zagging along and then hit the front part of the truck in which plaintiff-appellant was embarked. The court also found that the plate of the truck, No. A-659, was issued to the Southern Motors, Inc. in 1956. The truck was sold by defendant-appellee Southern Motors, Inc. to Roberto Bolneo, on installment basis, and the latter thereafter mortgaged the truck to the Southern Motors, Inc., as security for the balance of the purchase price. The court below held that Bolneo owned the truck bearing plate No. A-659 and was the employer of Vicente Fernandez, the driver, at the time of the collision. On this ground the court dismissed the action against the Southern Motors, Inc.

As to the other defendant-appellee the court, following the case of *Lasam vs. Smith*, 45 Phil., 657, and the case of *Gillaco vs. Manila Railroad Co.* (97 Phil., 884; 51 Off. Gaz., [11] 5596), held that the carrier is responsible only in those cases in which it or its employees fail to exercise reasonable diligence. As the court had found that the truck in which plaintiff-appellant was embarked was parked when it was struck by the other car, it held that the carrier, defendant-appellee Carmelino de la Serna, could not be held responsible.

On appeal to this Court, plaintiff-appellant assails the order of dismissal against defendant-appellee Southern Motors, Inc., claiming that at the time of the accident the truck bearing plate No. A-659 was legally owned by the Southern Motors, Inc. We find no merit in this contention of the appellant. The court below found, and it clearly appears from the documents submitted, that the truck in question, while bearing plate No. A-659 was sold by the Southern Motors, Inc., Bacolod Branch, to Roberto Bolneo on August 8, 1955 (Annex "A" attached to Answer), and mortgaged by the vendee to the Southern Motors, Inc. on the same date (Annex "B" attached to Answer). It also appears that the Southern Motors, Inc. reported the sale of the vehicle in question to the Motor Vehicles Office on August 31, 1955, but Bolneo failed to register it in his name, continuing to use vendor's plate. It is true that we have held in several cases that the registered owner of a certificate of public convenience is liable for injuries suffered by passengers even though the same has been transferred to third persons. (*Montoya vs. Ignacio*,

94, Phil., 182; 50 Off. Gaz., 108 Roque vs. MaHbay Transit, Inc. L-8561, Nov. 18, 1955; Vda. de Medina vs. Cresencia, 99 Phil., 506; 52 Off. Gaz. No. 10, 4606; Rayos vs. Aquino and Rayos vs. Tamayo, 105 Phil., 949; 56 Off. Gaz. [36] 5617.) The said decisions, however, are not applicable in the case at bar, because Southern Motors, Inc. was not the owner, although the plate of the truck belonged to it.

Under the provisions of the Revised Motor Vehicle Law, Act No. 3992, the vendee is required to register the motor vehicle purchased by him (Sec. 5 [a] and Sec. 6 [a], Act No. 3992) and is prohibited from displaying the dealer's plate number on said truck (Sec. 20, Ibid.). In spite of this prohibition the purchaser of the truck, Bolneo, continued using the dealer's plate number and did not have it registered in his name. This failure on the part of Bolneo to register the truck in his name and securing a plate for himself, a clear violation of the provisions of the Revised Motor Vehicle Law, is imputable to Bolneo alone, and cannot be a legal ground for holding the vendor liable, because the defendant Southern Motors, Inc. was no longer the owner of the truck and had complied strictly with the provisions of the law regarding registration.

Finding no error in the decision appealed from, we hereby affirm it, with costs against plaintiff-appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcion, and Endencia, JJ., concur.

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