

OLIMPIO PANGONOROM AND METRO MANILA TRANSIT CORPORATION, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 143380. April 11, 2005

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review[1] to annul the Decision[2] dated 29 November 1999 of the Court of Appeals in CA-G.R. CR No. 14764, as well as its Resolution[3] dated 5 May 2000 denying the motion for reconsideration. The Court of Appeals affirmed in toto the 5 February 1993 Decision[4] of the Regional Trial Court of Quezon City, Branch 79 in Criminal Case No. Q-90-11397.

The Charge

On 21 March 1990, Assistant City Prosecutor Rosario U. Barias filed an Information charging Olimpio Pangonorom ("Olimpio") with reckless imprudence resulting in damage to property with multiple slight physical injuries, committed as follows:

That on or about the 10[th] day of July, 1989, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the abovenamed accused, being then the driver and person in charge of a motor vehicle (MMTC-passenger bus) with plate No. NVJ-999 TB Pil. '89, did, then and there unlawfully and feloniously drive, manage and operate the same along E. de los Santos Ave., Quezon Avenue - this City, in a careless, reckless and imprudent manner, by then and there driving the same without due regard to traffic laws and regulations and without taking the necessary precautions to prevent accident to person and damage to property, causing by such carelessness, recklessness and imprudence said motor vehicle so driven by him to strike and collide with an [I]suzu [G]emini car with plate No. NAR-865 L Pil. '89, belonging to Mary Berba and driven by Carlos Berba y Remulla, thereby causing damages in the total amount of P42,600.00, Philippine Currency; as a consequence thereof said Carlos Berba sustained physical injuries for a period of less than nine (9) days and incapacitated him from performing his customary labor for the same period of time and also his passengers namely: Mary Berba y Matti and Amelia Berba y Mendoza sustained physical injuries for a period of less than nine (9) days and incapacitated them from performing their customary labor for the same period of time, thereafter, abandoned said offended parties without aiding them, to the damage and prejudice of the said offended parties in such amount as may be awarded to them under the provisions of the Civil Code.

CONTRARY TO LAW.[5]

Arraignment and Plea

When arraigned on 26 June 1990, Olimpio, with the assistance of counsel, entered a plea of not guilty.[6]The Trial

The prosecution presented five witnesses: (1) Carlos R. Berba; (2) Mary M. Berba; (3) Amelia Berba; (4) Edward Campos; and (5) Enrico B. Estupigan.

On the other hand, the defense presented three witnesses: (1) Olimpio himself; (2) Milagros Garbo; and (3) Nenita Amado.

The facts, as summarized by the trial court, are as follows:

The evidence of the prosecution shows that on July 10, 1989 at around 9:00 P.M. Carlos R. Berba was driving an Isuzu Gemini car bearing Plate No. NAR-865 L Pil. '89 belonging to his mother Mary Berba. With him inside the car were his mother Mary Berba who was seated in front beside him and his auntie Amelia Berba who was at the back seat. They were cruising along EDSA coming from the direction of Makati and headed towards the intersection of EDSA and Quezon Boulevard but upon nearing 680 Appliances along EDSA, Quezon City, their car was bumped from behind by MMTC Passenger Bus bearing Plate No. NVJ-999 TB Pil. '89 driven by herein accused Olimpio Pangonorom thereby causing damages to their car which was estimated at P42,600.00 (Exhs. F, F-1). The front and rear portions of their car incurred damages because by reason of the strong impact at the rear portion of their car, it was pushed forward and bumped the car in front of it, then it rested near the island. The bus driven by the accused still travelled a distance of 20 meters from the point of impact. The accused left his bus but they came to know his name is Olimpio Pangonorom. Their car was a total wreck as shown in its photographs (Exhs. B and C).

Carlos Berba noticed this bus following them closely at Nepa Q-Mart up to the point of collision. His car was running along the second lane of EDSA from the island. The MMTC bus driven by the accused was running very fast, kept on switching lane until it finally occupied the second lane and bumped his car. Carlos Berba sustained cuts on his shoulder and back because of broken glasses and was treated at East Avenue Medical Center. He incurred P1,000.00 for medication (Exhs. G to G-3). Mary Berba sustained contusion, hematoma and abrasion (Exh. H). Amelia Berba sustained abrasion on his right elbow (Exh. K). Both were also treated at East Avenue Medical Center.

Edward Campos and Enrico Bantique Estupigan, passengers of MMTC Bus driven by the accused explained that their bus was running at 70-80 kph when it swerved to the right to avoid hitting a van stranded at the left side of the island but in the process it hit and bumped an Isuzu Gemini car in front of it. The rear portion of the Isuzu Gemini car was smashed and the front part was also damaged as it hit the Lancer car running ahead. The bus driver, herein accused, fled from the scene.

It was a rainy day, road was slippery, the rain had just stopped but was still drizzling.

The defense on the other hand presented accused Olimpio Pangonorom, Milagros Garbo, Nenita Amado and documents marked as Exhs. 1 to 15 with sub-markings.

Accused Olimpio Pangonorom testified that he was a driver since 1976, having worked as a truck driver in Mindanao, then employed as driver of Silangan Transit up to 1981 and from 1981 up to the present is a driver of Metro Manila Transit. He is a holder of professional driver's license with OR No. 15160307 (Exhs. 1, 1-A). On July 10, 1989 he drove MMTC bus from Monumento to Baclaran and vice-versa. He was driving MMTC bus between 7:00 - 8:00 P.M. along EDSA headed towards Monumento when upon reaching in front of 680 Appliances his bus was involved in a vehicular accident. It was drizzling, his bus was running at a speed of 70 kph along the third lane of EDSA going to Monumento and an Isuzu Gemini car ahead of him was on his left side running along the second lane of EDSA at a distance of 30 meters away. When the car was at a distance of 20 meters away and before reaching the stalled vehicle, it swerved to the right without signal light, so he blew his horn, stepped on his brakes, but since the street was downgrade, it was raining and slippery, his brakes failed to control his bus, thus hit and bumped the Isuzu Gemini car. He identified the Isuzu Gemini car and damages sustained by the car in the photograph marked as Exh. C. His bus slid after he applied his brakes because the street was slippery. He reported at their garage after the accident, left his vehicle and went back at

the scene with a wrecker. The passengers of the Isuzu car were brought to the hospital.

The training officer of MMTC, Milagros Garbo, testified on the procedure of the company in hiring an applicant driver and the requirements to be submitted by the applicant. An applicant for a driver of MMTC as what had been done to the accused before he was admitted as company driver of MMTC must pass an interview, seminars, written examination, actual driving test, psycho-physical test, road test, line familiarization test, defensive driving seminar, driver's familiarization seminar, and traffic rules and environment seminar. Documents they required to be submitted by an applicant driver were NBI Clearance, Residence Certificate, Professional Driver's License, and Official Receipts of payment of required fees for driver's license (Exhs. 1 to 15).

The internal control relative to the supervision of their drivers was explained by witness Nenita Amado, a transport supervisor of MMTC. She supervises and gives instructions and recommendations on bus rules and regulations to their drivers. They have ten (10) comptrollers, thirty-six (36) dispatchers, seven (7) field supervisors, sixty (60) inspectors and four (4) service wreckers who helped in the supervision of the drivers and conductors of MMTC. They have centralized radio that monitor the activities of their drivers during their travel. Her instructions to the drivers were to avoid accident, obey traffic rules and regulations and to be courteous to passengers.[7]

On 5 February 1993, the trial court rendered its Decision with the following dispositive portion:

PREMISES CONSIDERED, the Court finds accused Olimpio Pangonrom guilty beyond reasonable doubt of the crime of reckless imprudence resulting in multiple slight physical injuries and sentences him to suffer an imprisonment of thirty (30) days of arresto menor, to indemnify the offended parties of the damages incurred by their Isuzu Gemini car in the sum of P42,600.00 and to reimburse the medical expenses of Carlos R. Berba in the sum of P182.50, Amelia Berba in the sum of P217.50 and Mary Berba in the sum of P45.00.

SO ORDERED.[8]

Petitioners appealed the trial court's decision to the Court of Appeals.[9]

The Ruling of the Court of Appeals

The Court of Appeals ruled that the finding that Olimpio drove the passenger bus in a negligent manner, considering the circumstances of weather and road condition, is a finding of fact of the trial court that is entitled to respect. The Court of Appeals stated that it is a settled rule that factual findings of trial courts are accorded great respect unless it can be shown that they overlooked some circumstances of substance which, if considered, will probably alter the result. The Court of Appeals held that no such circumstance was overlooked in this case.

The Court of Appeals ruled that even if it were true, as Olimpio claimed, that the car Carlos Berba ("Carlos") was then driving occupied Olimpio's lane while the car was 20 meters away, it is a safe distance for a vehicle to switch lanes. The Court of Appeals held that if only Olimpio did not drive very fast and considered that the street was downgrade and slippery, he could have easily avoided the accident by applying his brakes.

The Court of Appeals also ruled that the testimonies of Edward Campos ("Edward") and Enrico Bantigue, who were passengers of the MMTC bus, are worthy of credence. The Court of Appeals stated that they are neutral witnesses who had no motive to testify against Olimpio. They testified that: (1) the MMTC bus was running at 70-80 kilometers per hour; (2) the bus swerved to the right to avoid hitting a van stranded at the left side of the island; and (3) in the process, the bus hit and bumped the Gemini car ahead of it. Edward further testified that Olimpio earlier overtook another bus. Edward stated that it was for this reason that the MMTC bus went into the lane where the stalled van was located. The Court of Appeals held that the MMTC bus was the one switching lanes.

The dispositive portion of the decision of the Court of Appeals reads:

WHEREFORE, the judgment herein appealed from is hereby AFFIRMED in toto.

SO ORDERED.[10]

On 28 December 1999, petitioners filed with the Court of Appeals a motion for reconsideration of the assailed decision. Petitioners asserted that the Court of Appeals erred in finding Olimpio negligent in driving the subject bus. Petitioners also asserted that Carlos was the one switching lanes and was therefore the one negligent in driving his car. Petitioners stated that the Court of Appeals erred in not holding that the MMTC was not subsidiarily liable for Olimpio's civil liability in the instant case. Petitioners stated that the testimonies of witnesses Milagros Garbo and Nenita Amado, as well as Exhibits 1 to 15, proved that the MMTC exercised due diligence in the selection and supervision of its drivers.[11]

On 5 May 2000, the Court of Appeals issued a Resolution[12] denying the motion for reconsideration. With the assailed decision having "amply discussed, considered and ruled upon" the issues that petitioners raised in their motion for reconsideration, the Court of Appeals held that there was no cogent reason for it to reverse the assailed decision. The Court of Appeals also held that the MMTC was already estopped in assailing the trial court's decision considering that the MMTC never appealed the decision within the reglementary period.

The Issues

Petitioners have presented the following for our consideration:

- The Court of Appeals gravely abused its discretion in sustaining the trial court's findings of facts instead of considering certain facts and circumstance raised by petitioners that properly cast an element of reasonable doubt.
- Whether Estoppel applies to MMTC.[13]

The Ruling of the Court

The petition is without merit.

In criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors.[14]

Petitioners fault the Court of Appeals for having sustained the trial court's findings of fact. Petitioners assert that the Court of Appeals failed to consider certain circumstances that would warrant a reversal of the factual findings of the trial court.

Petitioners claim that Carlos' negligence in switching lanes to avoid hitting a stranded van caused the collision. Petitioners assert that Carlos was negligent because he transferred to the lane where Olimpio was then driving along without first blinking his signal light and with his car only 20 meters away from the bus. This being so, petitioners assert that they should not be held responsible for Carlos' negligence.

Petitioners' assertions have no merit. The issue of whether a person is negligent is a question of fact.[15] Findings of fact of the Court of Appeals, when they affirm the findings of fact of the trial court, are binding on this Court, unless the findings of the trial and appellate courts are palpably unsupported by the evidence on record or unless the judgment itself is based on misapprehension of facts.[16] We hold that the Court of Appeals committed no reversible error in upholding the factual findings of the trial court.

Article 365 of the Revised Penal Code states that reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration (1) his employment or occupation; (2) his degree of intelligence; (3) his physical condition; and (4) other circumstances regarding persons, time and place.

Olimpio is a professional driver who has been in the employ of the MMTC since 1984.[17] As a public utility driver, Olimpio should have as his primary concern the safety not only of himself or of his passengers, but, also the safety of his fellow motorists. Considering that it had just rained, it was still drizzling and the road was slippery when the subject incident took place,[18] Olimpio should have been more cautious and prudent in driving his passenger bus.

Based on Olimpio's testimonial admission, he was driving at 70 kilometers per hour. He testified he was familiar with the road.[19] Therefore, he ought to have known the downhill slope coming from the Nepa-Q Mart.[20] As the bus was moving downhill, Olimpio should have slowed down since a downhill drive would naturally cause his vehicle to accelerate. However, instead of slowing down, Olimpio admitted he was "running very fast." Thus, Olimpio testified:

Atty. ANTONIO:

Q

It was nighttime Mr. Witness, will you tell us whether you were able to see this vehicle you were following?

A

Yes, sir.

Q

Will you tell us how did you notice this vehicle?

A

Because I saw its tail light, sir.

Q

Before this vehicle you were following reached the place where this stalled vehicle was, do you know where was this vehicle proceeded?

FISCAL:

I think he is incompetent, Your Honor.

COURT:

Sustained.

Atty. ANTONIO:

Q

Before your vehicle reached the place where this stalled vehicle was, what did you notice if any?

A

I noticed that the vehicle I was following Isuzu Gemini before reaching the stalled vehicle suddenly swerved to the right and I was already approaching, sir.

Q

Before this Isuzu Gemini car you were following suddenly swerved to the right, how far were you?

A

About twenty (20) meters, sir. It suddenly swerved to the right and I was running very fast because it was downward.

Q

And when you noticed this Isuzu Gemini suddenly swerved to the right, what if any did you do?

A

I blew my horn and stepped on my brakes, sir. Considering that it was raining and slippery I cannot control.

Q

And after your were not able to control your vehicle despite the precaution you made, what happened?

A

I bumped him, sir.[21] (Emphasis supplied)

The only conclusion that we can draw from the factual circumstances is that Olimpio was negligent. He was hurrying to his destination and driving faster than he should have. The fact that after Olimpio stepped on the brake, the bus still traveled a distance of 20 meters before it finally stopped, and the car, after it was hit, was thrown 10 to 15 meters away,[22] only prove that Olimpio's bus was running very fast.

Olimpio's claim that Carlos suddenly transferred to his lane to avoid hitting a van stranded at the left side of the island could hardly carry the day for him. Olimpio says that the distance between the car and the bus before the car allegedly swerved to the bus' lane was 20 meters. Therefore, at that point, Olimpio still had the opportunity to avoid the collision by slowing down or by stepping on the brake. However, what Olimpio did was to continue running very fast.

Another telling proof of Olimpio's negligence is the testimony of Edward, a passenger of the MMTC bus who was seated at the right front seat nearest to the door of the bus.[23] Edward recounted the incident, thus:

Q

You said that there was a van parked which the Metro Manila Transit tried to avoid. Where was that van parked?

A

It was stranded above the middle island of the road, sir.

COURT:

Q

When you said of the road you are referring to EDSA?

A

Yes, Your Honor.

FISCAL:

Q

So when it swerved to avoid hitting the parked van, what happened?

A

It was too late, sir, when he noticed that there was a car slowly cruising EDSA so when he swerved he was very fast so it was too late to avoid the car. He just braked, the road was slippery so he could not swerve because the bus might turn over.

x x x

Q

Mr. Witness, did you notice this stalled vehicle before you reached the place where it was stalled?

A

No, sir.

Q

Even when the lights of the Metro Manila Transit were on, you did not notice it?

A

Actually, sir, he was overtaking another bus so that's why he did not notice this stalled van.

Q

Who was overtaking another bus?

A

MMTC bus, sir, because it stopped at the MMC office near Timog and then it overtook another moving bus. He went to the left side overtaking that bus.

x x x

Atty. ANTONIO:

Q

Are you a driver?

A

Yes, sir.

Q

And if circumstances similar to that incident that happened, it would be prudent for you to swerve also, is it not?

A

At that condition, sir, I'd rather brake than swerve, it is slippery.

Q

Mr. Witness, will you tell how far was this MMTC bus when it swerved in relation to the place where the stalled vehicle was?

A

I guess, sir, it was a few seconds before too late because when it swerved the bus was already tilting, so it is a matter of seconds.

Atty. ANTONIO:

Q

It was a matter of seconds?

A

Yes, sir.

Q

So if you were in this position stopping would not be sufficient precautionary measure, was it not?

A

Before that, sir, he overtook that bus so if he did not overtake that bus he would have seen the parked van. Being a driver myself the way he overtook was dangerous, it was so close that you could not see the other lane.

x x x

Q

Will you please explain Mr. Witness, how this MMTC bus hit the car when you claimed that the car was running ahead of the bus?

A

There was this stalled van and there was this bus, now this was the Gemini car, this slowed down to avoid also the stalled van, it swerved so the bus was here running very fast and then noticed the van so it swerved also and the Gemini here was of course slowed down to avoid that van, the bus was still running fast then after swerving it was too late for him to notice that there was this car running slowly by the bus, he stepped on the brake.

Q

Do you mean to say Mr. Witness, that both the Isuzu vehicle and the MMTC bus were running on the same course?

A Yes, sir.[24] (Emphasis supplied).

Edward's declarations that "the bus was running very fast" and that Olimpio did not see the stranded van because he earlier overtook another bus are clear and categorical. There is no evidence of any ill or improper motive on Edward's part that would discredit his testimony. He was not in any way related to the complainants. Neither was the defense able to show that some form of consideration induced Edward to testify for the prosecution. The defense did not even try to rebut Edward's testimony.

When there is nothing to indicate that a witness was actuated by improper motives, his positive and categorical declarations on the witness stand under solemn oath deserve full faith and credit.[25]

Petitioners likewise fault the Court of Appeals for having ruled that the MMTC is already estopped from assailing the trial court's decision considering that the MMTC "never appealed the same within the reglementary period."

We have carefully gone over the records of this case and found that when petitioners filed their Notice of Appeal with the trial court on 8 March 1993, the MMTC already appealed the civil aspect of this case. We quote petitioners' Notice of Appeal:

The ACCUSED and his employer, Metro Manila Transit Corporation, by their undersigned counsel, unto this Honorable Court, most respectfully give notice that they are appealing, as they hereby appeal, the Decision dated February 5, 1993, which was received on February 23, 1993, to the Court of Appeals on the ground that the Decision is contrary to the facts, law and settled jurisprudence.

Metro Manila Transit Corporation likewise interposes an appeal with respect to the civil aspect of this case because of its subsidiary liability as employer of the accused under the Revised Penal Code.[26]

It is therefore not correct for the Court of Appeals to state in its Resolution[27] dated 5 May 2000 that the MMTC failed to appeal seasonably the issue of its alleged "non-subsidiary liability"[28] as Olimpio's employer.

However, due diligence in the selection and supervision of employees is not a defense in the present case. The law involved in the present case is Article 103 of the Revised Penal Code, in relation to Articles 100[29] and 102[30] of the same Code, which reads thus:

Art. 103. Subsidiary civil liability of other persons. - The subsidiary liability established in the next preceding article shall also apply to employers, teachers, persons, and corporations engaged in any kind of industry for felonies committed by their servants, pupils, workmen, apprentices, or employees in the discharge of their duties.

Pursuant to Article 103, an employer may be subsidiarily liable for the employee's civil liability in a criminal action when there is adequate evidence establishing (1) that he is indeed the employer of the convicted employee; (2) that he is engaged in some kind of industry; (3) that the employee committed the offense in the discharge of

his duties; and (4) that the execution against the employee has not been satisfied due to insolvency.[31]

The provisions of the Revised Penal Code on subsidiary liability - Articles 102 and 103 - are deemed written into the judgments in cases to which they are applicable. Thus, in the dispositive portion of its decision, the trial court need not expressly pronounce the subsidiary liability of the employer.[32]

The subsidiary liability of the employer arises only after conviction of the employee in the criminal action.[33] In the present case, there exists an employer-employee relationship between petitioners, the MMTC is engaged in the transportation industry,[34] and Olimpio has been adjudged guilty of a wrongful act and found to have committed the offense in the discharge of his duties.[35] However, there is no proof here of Olimpio's insolvency. The judgment of conviction against Olimpio has not attained finality. This being so, no writ of execution can issue against him to satisfy his civil liability. Only after proof of the accused-employee's insolvency may the subsidiary liability of his employer be enforced.[36]

In short, there is as yet no occasion to speak of enforcing the employer's subsidiary civil liability unless it appears that the accused-employee's primary liability cannot in the first instance be satisfied because of insolvency. This fact cannot be known until some time after the verdict of conviction shall have become final. And even if it appears *prima facie* that execution against the employee cannot be satisfied, execution against the employer will not issue as a matter of course.[37] The procedure for the enforcement of a judgment will have to be followed. Once the judgment of conviction against Olimpio becomes final and executory, and after the writ of execution issued against him is returned unsatisfied because of his insolvency, only then can a subsidiary writ of execution be issued against the MMTC after a hearing set for that precise purpose. It is still too early to hold the MMTC subsidiarily liable with its accused-employee considering that there is no proof yet of Olimpio's insolvency.

WHEREFORE, we DENY the instant petition. The Decision dated 29 November 1999 of the Court of Appeals in CA-G.R. CR No. 14764 finding petitioner Olimpio Pangonorom GUILTY beyond reasonable doubt of reckless imprudence resulting in multiple slight physical injuries, as well as its Resolution dated 5 May 2000 denying the motion for reconsideration, are AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Hector L. Hofileña, with Associate Justices Omar U. Amin and Jose L. Sabio, Jr., concurring. Rollo, pp. 25-30.

[3] *Ibid.*, pp. 32-33.

[4] Penned by Judge Godofredo L. Legaspi. Records, pp. 164-168.

[5] Records, p. 1.

[6] *Ibid.*, p. 12.

[7] Records, pp. 165-167.

[8] *Ibid.*, p. 168.

[9] Rollo, p. 35.

[10] Ibid., p. 30.

[11] CA Rollo, pp. 119-124.

[12] Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Ramon Mabutas, Jr. and Edgardo P. Cruz, concurring. Rollo, pp. 32-33.

[13] Ibid., pp. 16 and 18.

[14] *People v. Jubail*, G.R. No. 143718, 19 May 2004, 428 SCRA 478; *People v. Saludes*, G.R. No. 144157, 10 June 2003, 403 SCRA 590; *People v. Melendres, Jr.*, G.R. No. 134940, 30 April 2003, 402 SCRA 279.

[15] *Thermochem Incorporated v. Naval*, G.R. No. 131541, 20 October 2000, 344 SCRA 76.

[16] *China Airlines, Ltd. v. Court of Appeals*, G.R. No. 129988, 14 July 2003, 406 SCRA 113; *Romago Electric Co., Inc. v. Court of Appeals*, 388 Phil. 964 (2000); *Austria v. Court of Appeals*, G.R. No. 133323, 384 Phil. 408 (2000); *Halili v. CA*, 350 Phil. 906 (1998).

[17] Records, pp. 132, 145-146.

[18] TSN, 22 April 1991, pp. 5, 9 and 13; TSN, 5 May 1992, pp. 6, 8-9 and 11.

[19] TSN, 5 May 1992, p. 10.

[20] Ibid., pp. 7- 9, and 11.

[21] TSN, 5 May 1992, p. 8.

[22] TSN, 17 October 1990, p. 12; TSN, 22 April 1991, p. 7; TSN, 5 May 1992, p. 9.

[23] TSN, 22 April 1991, p. 9.

[24] TSN, 22 April 1991, pp. 4-5, 10, 13-14 and 16.

[25] *People v. Balili*, G.R. No. 125908, 5 September 2002, 388 SCRA 376; *People v. Gonzales*, 432 Phil. 449 (2002); *People of the Philippines v. Quening*, 424 Phil. 48 (2002).

[26] Rollo, p. 35.

[27] Ibid., p. 32.

[28] CA Rollo, p. 119.

[29] Art. 100. Civil liability of a person guilty of felony. - Every person criminally liable for a felony is also civilly liable.

[30] Art. 102. Subsidiary civil liability of innkeepers, tavernkeepers and proprietors of establishments. - In default of the persons criminally liable, innkeepers, tavernkeepers, and any other persons or corporations shall be civilly liable for crimes committed in their establishments, in all cases where a violation of municipal ordinances or some general or special police regulation shall have been committed by them or their employees.

Innkeepers are also subsidiarily liable for the restitution of goods taken by robbery or theft within their houses from guests lodging therein, or for the payment of the value thereof, provided that such guests shall have notified in advance the innkeeper himself, or the person representing him, of the deposit of such goods within the inn; and shall furthermore have followed the directions which such innkeeper or his representative may have given them with respect to the care of and vigilance over such goods. No liability shall attach in case of robbery with violence

against or intimidation of persons unless committed by the innkeeper's employees.

[31] Philippine Rabbit Bus Lines, Inc. v. People, G.R. No. 147703, 14 April 2004, 427 SCRA 456; Baza Marketing Corporation v. Bolinao Security and Investigation Service, Inc., 202 Phil. 478 (1982); Joaquin, et al. v. Aniceto, et al., 120 Phil. 1100 (1964).

[32] Philippine Rabbit Bus Lines, Inc. v. People, G.R. No. 147703, 14 April 2004, 427 SCRA 456; Alvarez v. Court of Appeals, No. L-59621, 23 February 1988, 158 SCRA 57.

[33] Carpio v. Doroja, G.R. No. 84516, 5 December 1989, 180 SCRA 1; Alvarez v. Court of Appeals, No. L-59621, 23 February 1988, 158 SCRA 57; Pajarito v. Señeris, No. L-44627, 14 December 1978, 87 SCRA 275.

[34] Rollo, p. 11; Exhibit 10, Records, pp. 145-146; TSN, 2 June 1992, p. 6.

[35] Records, pp. 164-168.

[36] Philippine Rabbit Bus Lines, Inc. v. People, *supra* note 31.

[37] Ozoa v. Vda. De Madula, No. L-62955, 22 December 1987, 156 SCRA 779.

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