LAPANDAY AGRICULTURAL AND DEVELOPMENT CORPORATION (LADECO), HENRY BERENGUEL, AND APOLONIO R. DEOCAMPO, PETITIONERS, VS. MICHAEL RAYMOND ANGALA, RESPONDENT.

G.R. NO. 153076. June 21, 2007

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review[1] assailing the 25 July 2001 Decision[2] and 11 March 2002 Resolution[3] of the Court of Appeals in CA-G.R. CV No. 51134.

The Antecedent Facts

On 4 May 1993, at about 2:45 p.m., a Datsun crewcab with plate no. PEC-903 driven by Apolonio Deocampo (Deocampo) bumped into a 1958 Chevy pick-up with plate no. MAM-475 owned by Michael Raymond Angala (respondent) and driven by Bernulfo Borres (Borres). Lapanday Agricultural and Development Corporation (LADECO) owned the crewcab which was assigned to its manager Manuel Mendez (Mendez). Deocampo was the driver and bodyguard of Mendez. Both vehicles were running along Rafael Castillo St., Agdao, Davao City heading north towards Lanang, Davao City. The left door, front left fender, and part of the front bumper of the pick-up were damaged.

Respondent filed an action for Quasi-Delict, Damages, and Attorney's Fees against LADECO, its administrative officer Henry Berenguel[4] (Berenguel) and Deocampo. Respondent alleged that his pick-up was slowing down to about five to ten kilometers per hour (kph) and was making a left turn preparatory to turning south when it was bumped from behind by the crewcab which was running at around 60 to 70 kph. The crewcab stopped 21 meters from the point of impact. Respondent alleged that he heard a screeching sound before the impact. Respondent was seated beside the driver and was looking at the speedometer when the accident took place. Respondent testified that Borres made a signal because he noticed a blinking light while looking at the speedometer.[5]

Respondent sent a demand letter to LADECO for the payment of the damages he incurred because of the accident but he did not receive any reply. Thus, respondent filed the case against LADECO, Berenguel, and Deocampo.

Deocampo alleged that the pick-up and the crewcab he was driving were both running at about 40 kph. The pick-up was running along the outer lane. The pick-up was about 10 meters away when it made a U-turn towards the left. Deocampo testified that he did not see any signal from the pick-up.[6] Deocampo alleged that he tried to avoid the pick-up but he was unable to avoid the collision. Deocampo stated that he did not apply the brakes because he knew the collision was unavoidable. Deocampo admitted that he stepped on the brakes only after the collision.

The Ruling of the Trial Court

In its 3 March 1995 Decision,[7] the Regional Trial Court of Davao City, Branch 15 (trial court) ruled:

> WHEREFORE, judgment is hereby rendered ordering the defendants LADECO and Apolonio Deocampo to solidarily pay the plaintiffs the following sums:
>
> - Twenty three thousand two hundred (P23,200.00) pesos as actual damages.
>
> - Ten thousand (P10,000.00) pesos as moral damages.
>
> - Ten thousand (P10,000.00) pesos as attorney's fees.
>
> - Costs of suit.
>
> SO ORDERED.[8]

The trial court found that the crewcab was running very fast while following the pick-up and that the crewcab's speed was the proximate cause of the accident. The trial court observed that the crewcab stopped 21 meters away from the point of impact despite Deocampo's claim that he stepped on the brakes moments after the collision. The trial court ruled that Deocampo had the last opportunity to avoid the accident.

The trial court found that Berenguel was not liable because he was not the owner of the crewcab.

LADECO and Deocampo (petitioners)[9] filed a motion for reconsideration. The trial court denied petitioners' motion in its 13 June 1995 Order.[10]

Petitioners filed an appeal before the Court of Appeals.

The Ruling of the Court of Appeals

The Court of Appeals affirmed in toto the trial court's decision.

The Court of Appeals sustained the finding of the trial court that Deocampo was negligent. The Court of Appeals applied the doctrine of last clear chance and ruled that Deocampo had the responsibility of avoiding the pick-up.

The Court of Appeals also sustained the solidary liability of LADECO and Deocampo. The Court of Appeals ruled that under Article 2180 of the Civil Code, the negligence of the driver is presumed to be the negligence of the owner of the vehicle.

The dispositive portion of the Court of Appeals' Decision reads:

> WHEREFORE, premises considered, the appeal is DISMISSED for lack of merit, and the assailed Decision of the Court a quo in Civil Case No. 22067-93 is AFFIRMED in toto. Costs against defendants-appellants.
>
> SO ORDERED.[11]

Petitioners filed a motion for reconsideration. In its 11 March 2002 Resolution, the Court of Appeals denied the motion for lack of merit.

Hence, the petition before this Court.

The Issues

The issues before the Court are the following:

> - Whether the provisions of Section 45(b) of Republic Act No. 4136[12] (RA 4136) and Article 2185 of the Civil Code apply to this case; and
>
> - Whether respondent is entitled to the damages awarded.

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The Ruling of this Court

The petition is partly meritorious.

Both Drivers are Negligent

Both the trial court and the Court of Appeals found that Deocampo was at fault because he was driving very fast prior to the collision. The Court of Appeals sustained the trial court's finding that Deocampo was running more than the normal cruising speed. Both the trial court and the Court of Appeals noted that the crewcab stopped 21 meters away from the point of impact. Deocampo admitted that he stepped on the brakes only after the collision.

Petitioners allege that Borres did not take the proper lane before executing the U-turn. Petitioners allege that Borres violated Section 45(b) of RA 4136 and it was his recklessness that was the proximate cause of the accident.

Section 45(b) of RA 4136 states:

> Sec. 45. Turning at intersections. x x x
>
> (b) The driver of a vehicle intending to turn to the left shall approach such intersection in the lane for traffic to the right of and nearest to the center line of the highway, and, in turning, shall pass to the left of the center of the intersection, except that, upon highways laned for traffic and upon one-way highways, a left turn shall be made from the left lane of traffic in the direction in which the vehicle is proceeding.

Petitioners further allege that since Borres was violating a traffic rule at the time of the accident, respondent and Borres were the parties at fault. Petitioners cite Article 2185 of the Civil Code, thus:

> Art. 2185. Unless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap, he was violating any traffic regulation.

We rule that both parties were negligent in this case. Borres was at the outer lane when he executed a U-turn. Following Section 45(b) of RA 4136, Borres should have stayed at the inner lane which is the lane nearest to the center of the highway. However, Deocampo was equally negligent. Borres slowed down the pick-up preparatory to executing the U-turn. Deocampo should have also slowed down when the pick-up slowed down. Deocampo admitted that he noticed the pick-up when it was still about 20 meters away from him.[13] Vehicular traffic was light at the time of the incident. The pick-up and the crewcab were the only vehicles on the road.[14] Deocampo could have avoided the crewcab if he was not driving very fast before the collision, as found by both the trial court and the Court of Appeals. We sustain this finding since factual findings of the Court of Appeals affirming those of the trial court are conclusive and binding on this Court.[15] Further, the crewcab stopped 21 meters from the point of impact. It would not have happened if Deocampo was not driving very fast.

Doctrine of Last Clear Chance Applies

Since both parties are at fault in this case, the doctrine of last clear chance applies.

The doctrine of last clear chance states that where both parties are negligent but the negligent act of one is appreciably later than that of the other, or where it is impossible to determine whose fault or negligence caused the loss, the one who had the last clear opportunity to avoid the loss but failed to do so is chargeable with the loss.[16] In this case, Deocampo had the last clear chance to avoid the collision. Since Deocampo was driving the rear vehicle, he had full control of the situation since he was in a position to observe the vehicle in front of him.[17] Deocampo had the responsibility of avoiding bumping the vehicle in front of him.[18] A U-turn is done at a much slower speed to avoid skidding and overturning, compared to running straight ahead.[19] Deocampo

could have avoided the vehicle if he was not driving very fast while following the pick-up. Deocampo was not only driving fast, he also admitted that he did not step on the brakes even upon seeing the pick-up. He only stepped on the brakes after the collision.

Petitioners are Solidarily Liable

LADECO alleges that it should not be held jointly and severally liable with Deocampo because it exercised due diligence in the supervision and selection of its employees. Aside from this statement, LADECO did not proffer any proof to show how it exercised due diligence in the supervision and selection of its employees. LADECO did not show its policy in hiring its drivers, or the manner in which it supervised its drivers. LADECO failed to substantiate its allegation that it exercised due diligence in the supervision and selection of its employees.

Hence, we hold LADECO solidarily liable with Deocampo.

Respondent is Entitled to Moral Damages

We sustain the award of moral damages. Moral damages are awarded to allow a plaintiff to obtain means, diversion, or amusement that will serve to alleviate the moral suffering he has undergone due to the defendant's culpable action.[20] The trial court found that respondent, who was on board the pick-up when the collision took place, suffered shock, serious anxiety, and fright when the crewcab bumped his pick-up. We sustain the trial court and the Court of Appeals in ruling that respondent sufficiently showed that he suffered shock, serious anxiety, and fright which entitle him to moral damages.

Both the trial court and the Court of Appeals failed to give any justification for the award of attorney's fees. Awards of attorney's fees must be based on findings of fact and of law and stated in the decision of the trial court.[21] Further, no premium should be placed on the right to litigate.[22] Hence, we delete the award of attorney's fees.

WHEREFORE, we AFFIRM the 25 July 2001 Decision and 11 March 2002 Resolution of the Court of Appeals in CA-G.R. CV No. 51134 with MODIFICATION by deleting the award of attorney's fees.

SO ORDERED.

Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.
Quisumbing, (Chairperson), J., on official leave.

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[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 54-62. Penned by Associate Justice Alicia L. Santos with Associate Justices Ramon A. Barcelona and Rodrigo V. Cosico, concurring.

[3] Id. at 71-72. Penned by Associate Justice Alicia L. Santos with Associate Justices Godardo A. Jacinto and Rodrigo V. Cosico, concurring.

[4] Erroneously referred to as Henry Merenguel in the petition.

[5] TSN, 25 November 1993, p. 40.

[6] TSN, 24 February 1994, p. 66.

[7] Rollo, pp. 38-47. Penned by Judge Jesus V. Quitain.

[8] Id. at 46-47.

[9] Berenguel was erroneously included as one of the petitioners. He should not be included because the trial court found that he was not liable to respondent.

[10] Records, p. 148.

[11] Rollo, p. 62.

[12] Land Transportation and Traffic Code.

[13] TSN, 24 February 1994, p. 77.

[14] Id. at 75.

[15] Philippine National Railways v. Brunty, G.R. No. 169891, 2 November 2006, 506 SCRA 685.

[16] Id.

[17] See Raynera v. Hiceta, 365 Phil. 546 (1999).

[18] Id.

[19] Adzuara v. CA, 361 Phil. 585 (1999).

[20] Philtranco Service Enterprises, Inc. v. Court of Appeals, G.R. No. 120553, 17 June 1997, 273 SCRA 562.

[21] Sanitary Steam Laundry, Inc. v. CA, 360 Phil. 199 (1998).

[22] Philtranco Service Enterprises, Inc. v. Court of Appeals, supra note 20.

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