

DR. EDUARDO AQUINO, PETITIONER, VS. HEIRS OF RAYMUNDA CALAYAG, NAMELY: RODRIGO, WILMA, WILLIE, WILLIAM, WILSON, WENDY, WHITNEY AND WARREN, ALL SURNAMED CALAYAG, REPRESENTED BY R...

G.R. No. 158461. August 22, 2012

Ponente: ABAD, J.

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ABAD, J.:

These cases involve the liability of the surgeon, the anesthesiologist, and the hospital owner arising from a botched caesarean section that resulted in the patient going into a coma.

The Facts and the Case

When his wife Raymunda went into labor pains and began bleeding on November 13, 1990, respondent Rodrigo Calayag (Rodrigo)[1] brought her to St. Michael's Clinic of petitioner Dr. Divinia Unite (Dr. Unite) at Malolos, Bulacan. After initial examination, the doctor told Rodrigo that Raymunda had to have a caesarean section for her baby but this had to be done at the better-equipped Sacred Heart Hospital (SHH), owned and operated by petitioner Dr. Alberto Reyes (Dr. Reyes).

SHH admitted Raymunda at 2:16 p.m. of the same day.[2] To prepare her, the attending anesthesiologist, petitioner Dr. Eduardo Aquino (Dr. Aquino), injected her at about 2:30 p.m. with a preliminary "Hypnotic." [3] At 2:48 p.m., he administered an anesthesia on her spine.[4] A few minutes later, at 2:53 p.m., [5] Dr. Unite delivered a stillborn eight-month-old baby.[6]

A few minutes later or at around 3:00 p.m., the operating team[7] noticed that Raymunda had become cyanotic.[8] Her blood darkened for lack of oxygen and, all of a sudden, her vital signs were gone.[9] The team worked on her for about 5 to 7 minutes until these were restored.[10]

Rodrigo claimed that when he saw Raymunda after the operation, her skin appeared dark ("nangingitim ang katawan") and the white of her eyes showed ("nakatirik ang mata"). When he asked Dr. Unite why his wife did not look well, she replied that this was merely the effect of the anesthesia and that she would regain consciousness in about eight hours.

When Raymunda's condition did not improve after a day, Dr. Unite referred her to Dr. Farinas, an internist, who found that she suffered a cardiac arrest during the operation, which explained her comatose state. Dr. Farinas referred Raymunda to a neurologist who advised Rodrigo to move her to a better-equipped hospital.[11] SHH discharged her on November 16, 1990, four days after her admission.

Raymunda was directly moved to Medical Center Manila (MCM) where Dr. Rogelio Libarnes (Dr. Libarnes), a neurologist, examined her. He found Raymunda in a "vegetative state," [12] having suffered from an anoxic injury [13] due to cardio-respiratory arrest during operation. [14] Dr. Libarnes was reluctant, however, to further

proceed without consulting Dr. Unite, Raymunda's surgeon, and Dr. Aquino, the anesthesiologist.

On November 23, 1990 Dr. Unite went to MCM to remove the stitches from Raymunda's surgical wound. Dr. Unite noted that the wound had dried with slight lochial discharge.[15] Later that day, however, Raymunda's wound split open, causing part of her intestines to jut out. MCM's Dr. Benito Chua re-sutured the wound.[16]

Raymunda never regained consciousness, prompting her MCM doctors to advise Rodrigo to take her home since they could do no more to improve her condition. MCM discharged her on November 30, 1990 and she died 15 days later on December 14, 1990.

Rodrigo filed, together with his seven children, a complaint[17] for damages against Dr. Unite, Dr. Aquino, and Dr. Reyes before the Regional Trial Court (RTC) of Malolos. Rodrigo claimed that Dr. Unite and Dr. Aquino failed to exercise the diligence required for operating on Raymunda. As for Dr. Reyes, Rodrigo averred that he was negligent in supervising the work of Dr. Unite and Dr. Aquino.

Defendant doctors uniformly denied the charge of negligence against them. They claimed that they exercised the diligence required of them and that causes other than negligence brought about Raymunda's condition.

On August 22, 1994, after hearing the parties on their evidence, the RTC rendered a decision, finding the three doctors liable for negligence. The proximate cause of Raymunda's cardiac arrest, said the RTC, was an anesthetic accident, occasioned by injecting her with a high spinal anesthesia. The operating doctors failed to correctly monitor her condition, resulting in a critical delay in resuscitating her after the cardiac arrest. The RTC ordered the doctors to pay Raymunda's heirs P153,270.80 as actual damages, P300,000.00 as moral damages, and P80,000.00 as attorney's fees and cost of suit.

On appeal,[18] the Court of Appeals entirely affirmed the findings of the RTC.[19] Undaunted, Dr. Unite, Dr. Aquino, and Dr. Reyes filed separate petitions for review that the Court subsequently consolidated.

In her petition, Dr. Unite washed her hands of any responsibility in Raymunda's operation. She claimed that it was not her suturing that caused the splitting open of the patient's surgical wound. Further, although some negligence may have attended the operation, this could be traced to the anesthesiologist, Dr. Aquino.

Dr. Aquino claims, on the other hand, that the evidence was insufficient to support the conclusion that anesthetic accident caused the cardio-respiratory arrest since, as testified, other factors may have caused the same.

Finally, Dr. Reyes claims that he cannot be held liable for Raymunda's death since Dr. Unite and Dr. Aquino were not his employees. Based on the control test, he did not exercise control and supervision over their work. They merely used his hospital's facilities for the operation.

The Issues Presented

The cases present two issues:

1. Whether or not Dr. Unite (the surgeon) and Dr. Aquino (the anesthesiologist) acted negligently in handling Raymunda's operation, resulting in her death; and
2. Whether or not Dr. Reyes is liable, as hospital owner, for the negligence of Dr. Unite and Dr. Aquino.

The Court's Rulings

The cause of action against the doctors in these cases is commonly known as medical malpractice. It is a form of negligence which consists in the physician or surgeon's failure to apply to his practice that degree of care and skill that the profession generally and ordinarily employs under similar conditions and circumstances.[20]

For this reason, the Court always seeks guidance from expert testimonies in determining whether or not the

defendant in a medical malpractice case exercised the degree of care and diligence required of him.[21] The Court has to face up to the fact that physicians have extraordinary technical skills that laymen do not have.[22]

To successfully mount a medical malpractice action, the plaintiff should establish four basic things: (1) duty; (2) breach; (3) injury; and (4) proximate causation.[23] The evidence should show that the physician or surgeon, either failed to do something which a reasonably prudent physician or surgeon would have done, or that he or she did something that a reasonably prudent physician or surgeon would not have done; and that the failure or action caused injury to the patient.[24]

Here, to prove Dr. Unite and Dr. Aquino's negligence, Rodrigo presented Dr. Libarnes, Raymunda's attending neurologist, and Dr. Chua, the general surgeon who re-stitched her wound.

Dr. Libarnes- explained that it was cyanosis or lack of oxygen in the brain that caused Raymunda's vegetative state. Her brain began to starve for oxygen from the moment she suffered cardio-respiratory arrest during caesarean section. That arrest, said Dr. Libarnes, could in turn be traced to the anesthetic accident that resulted when Dr. Aquino placed her under anesthesia.[25]

Dr. Libarnes also blamed the doctors who operated on Raymunda for not properly keeping track of her vital signs during the caesarean procedure resulting in their failure to promptly address the cyanosis when it set in.[26] Dr. Chua, on the other hand, testified that Raymunda's surgical wound would not have split open if it had been properly closed.[27]

For their defense, Dr. Unite and Dr. Aquino presented Dr. Reyes, their co-defendant, who practiced general surgery. Dr. Reyes testified that Raymunda's cardio-respiratory arrest could have been caused by factors other than high spinal anesthesia, like sudden release of intra-abdominal pressure and amniotic fluid embolism.[28] Insofar as Raymunda's dehiscence or splitting open of wound was concerned, Dr. Reyes testified that Raymunda's poor nutrition as well as the medication contributed to the dehiscence.

While the Court cannot question the expertise of Dr. Reyes as a general surgeon, it cannot regard him as a neutral witness. Given that he himself was a defendant in the case, he had a natural bias for testifying to favor his co-defendants.[29] Further, since he had no opportunity to actually examine Raymunda, Dr. Reyes could only invoke textbook medical principles that he could not clearly and directly relate to the patient's specific condition.

In contrast, as a neurologist with expertise in the human nervous system, including the brain, Dr. Libarnes was in a better position to explain Raymunda's "vegetative" condition and its cause. In his opinion, an anesthetic accident .during her caesarean section caused a cardio-respiratory arrest that deprived her brain of oxygen, severely damaging it. That damage could have been averted had the attending doctors promptly detected the situation and resuscitated her on time. Thus, Dr. Libarnes said:

Atty. Lazaro:

What could have been the probable cause of this cardio-respiratory arrest now Doctor?

Dr. Libarnes:

Well, most common cause of intra-operative cardio-respiratory arrest is anesthesia, an anesthetic accident.

Q:

Will you kindly explain that in layman's language now Doctor?

A:

The spinal anesthesia can re [suit] in depression of respiratory function. Respiratory arrest if significantly prolonged] can lead to cardiac arrest. Cardiac arrest of significant duration can res[ult] in brain injury.[30]

x x x x

Q:

Now, when you refer to anoxic injury Doctor, you are referring to the lack of supply of oxygen going to the brain that is what you mean?

A:

Yes.

Q:

And this is due to the weak pumping of the heart, that is correct Doctor?

A:

Yes.

Q:

And, the weak pumping of the heart under the events indicated by you could have been due to anesthesia accident, that is correct?

A:

Hypoxia meaning lobe of the lung not providing oxygen, the heart has been stressed under hypoxic condition eventually giving out. Yes, that is correct.[31]

Dr. Aquino administered to Raymunda a high spinal anesthesia when he should have given her only a low or mid-spinal anesthesia.[32]

Notably, Dr. Unite corroborated the fact that Raymunda suffered from cyanosis due to deprivation of oxygen. This was Dr. Unite's explanation when Rodrigo, seeing his wife after the operation, asked why she had a bluish color. Moreover, Dr. Unite admitted in her petition, that the proximate cause of Raymunda's brain injury was Dr. Aquino's acts as anesthesiologist.[33]

But Dr. Unite cannot exempt herself from liability. Dr. Aquino was not feeling well on the day of the operation as he was in fact on sick leave.[34] As surgeon in charge, Dr. Unite should not have allowed Dr. Aquino to take part in the operation.

Besides, as the RTC found; the record of the operation contained no notation just when Raymunda had a cardio-respiratory arrest and ceased to take in oxygen. This notation played a critical role since the surgeons had between 6 to 8 minutes from the time of arrest, called the golden period of reversibility, within which to save her from becoming a vegetable. The absence of the notation on record, an important entry because the absence of which is itself a ground for malpractice,[35] implies that the surgeons had no inkling when the cardio-respiratory arrest occurred and how much time they had left to revive their patient. Indeed, it took a subsequent examination by an internist for them to realize that Raymunda had suffered a cardio-respiratory arrest.

As for Dr. Reyes, the hospital owner, there appears no concrete proof to show that Dr. Unite and Dr. Aquino were under the hospital's payroll. Indeed, Dr. Aquino appeared to be a government physician connected with the Integrated Provincial Health Office of Bulacan.[36] Dr. Unite appeared to be a self-employed doctor. The hospital

allowed these doctors to operate on their patients, using its operating room and assisting staffs for a fee. No evidence has been presented that Raymunda suffered her fate because of defective hospital facilities or poor staff support to the surgeons.

That Dr. Reyes and his wife rushed to the operating room the moment they heard that Raymunda's vital signs had ceased is not an evidence that they exercised supervision over the conduct of the operation. They evidently came to see what was happening possibly to provide help if needed. Their showing up after the operation is not a proof that they had control and supervision over the work of the two doctors.

Nor would the doctrine of ostensible agency or doctrine of apparent authority make Dr. Reyes liable to Raymunda's heirs for her death. Two factors must be present under this doctrine: 1) the hospital acted in a manner which would lead a reasonable person to believe that the person claimed to be negligent was its agent or employee; and 2) the patient relied on such belief.

Here, there is no evidence that the hospital acted in a way that made Raymunda and her husband believe that the two doctors were in the hospital's employ. Indeed, the couple had been consulting Dr. Unite at St. Michael's Clinic, which she owned and operated in Malolos, Bulacan. She convinced them that the caesarean section had to be performed at the SHH because it had the facilities that such operation required. If the Court were to allow damages against the hospital under this arrangement, independently licensed surgeons would be unreasonably denied access to properly-equipped operating rooms in big hospitals.

As to the award of damages, following precedents set in *Flores v. Pineda*[37] respondent heirs of Raymunda are entitled to P50,000.00 as death indemnity pursuant to Article 2206 of the Civil Code.

WHEREFORE, premises considered, this Court DENIES the petitions and AFFIRMS the decision of the Court of Appeals dated November 28, 2002 and resolution dated May 27, 2003 subject to MODIFICATION directing petitioners, Dr. Divinia Unite and Dr. Eduardo Aquino to pay the heirs of Raymunda Calayag, in addition to the damages that the Court of Appeals awarded them, P50,000.00 as death indemnity.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Now, deceased.

[2] Clinical Case Record, Sacred Heart Hospital, Exhibit "J-1" for the respondent heirs.

[3] Anesthesia Record. Sacred Heart Hospital. Exhibit "J-14" for the respondent heirs.

[4] Id.

[5] "The birth of a dead baby, the delivery of a fetus that has died before birth for which there is no possibility of resuscitation." Retrieved from [http://\(www.medterms.com/script/main/art.asp?articlekey=19817](http://www.medterms.com/script/main/art.asp?articlekey=19817) last April 24, 2012 by Medicine-Net. Inc.

[6] Operating Room Record, Sacred Heart Hospital, Exhibit "J-15" for the respondent heirs.

[7] The operating team is composed of Dr. Unite as Head Surgeon, Dr. Teodoro Unite (Petitioner Dr. Unite's husband) as Assistant Surgeon, and Dr. J. Reyes as the Anesthesiologist. Exhibit "J-15" for the respondent heirs.

[8] "Bluish discoloration of the skin and mucous membranes due to not enough oxygen in the blood." Retrieved from <http://www.medterms.com/script/main/art.asp?articlekey=23457> last April 24, 2012 by MedicineNet. Inc.

- [9] Medical Center Manila, Consultation Sheet written by Dr. Unite. Exhibit "1-1" for the respondent heirs.
- [10] Supra note 6; TSN, Vol. 2, July 22, 1993, p. 44.
- [11] TSN, Vol. 2, May 19, 1992, pp. 10-14.
- [12] TSN, Vol. 2, December 14, 1992, p. 11.
- [13] "Anoxic brain damage happens when the brain receives inadequate oxygen for several minutes or longer. Brain cells begin to die after approximately four minutes without oxygen." Retrieved from <http://www.nju.edu/content/?ChunkIID=96472> last April 24, 2012 by NYU Langone Medical Center.
- [14] Supra note 12, at 14.
- [15] Supra note 9.
- [16] Record of Operation of Medical Center Manila, Exhibit "H" for the respondent heirs.
- [17] Docketed as Civil Case 670-M-91.
- [18] Docketed as CA-G.R. CV 48075.
- [19] Decision dated November 28, 2002. The subsequent motion for reconsideration was denied by the CA in its Resolution dated May 27, 2003.
- [20] Cayao-Lasam v. Ramolete, G.R. No. 159132, December 18, 2008, 574 SCRA 439, 454.
- [21] Lucas v. Tuaño, G.R. No. 178763, April 21, 2009, 586 SCRA 173,200.
- [22] Li v. Spouses Soliman, G.R. No. 165279. June 7, 2011. 651 SCRA 32, 55-56.
- [23] In Lucas v. Tuaño, supra note 21, at 199-200, the Supreme Court explains the elements in the following manner: Duty, the physician has the duty to use at least the same level of care that any other reasonably competent physician would use to treat the condition under similar circumstances. Breach & Injury. There is breach of duty of care, skill and diligence, or the improper performance of such duty, by the attending physician when the patient is injured in body or in health [and this] constitutes the actionable malpractice. Proximate cause. The injury for which recovery is sought must be the legitimate consequence of the wrong done; the connection between the negligence and the injury must be a direct and natural sequence of events, unbroken by intervening efficient causes.
- [24] Garcia-Rueda v. Pascasio, 344 Phil. 323, 33 1 (1997).
- [25] TSN, Vol. 2, December 14, 1992, pp. 14-17.
- [26] Id. at 25-28.
- [27] TSN, Vol. 2, November 12, 1992, pp. 14-15.
- [28] TSN, Vol. 2, September 16, 1993, p. 21.
- [29] In People v. Lusabio, Jr., G.R. "No. 186119, October 27, 2009, 604 SCRA 565, 584-585, the Court held that "A witness is said to be biased when his relation to the cause or to the parties is such that he has an incentive to exaggerate or give false color tot his statements, or to suppress or to prevert the truth, or state what is false."
- [30] TSN, Vol. 2, December 14, pp. 15-16.
- [31] Id. at 30.

[32] TSN, Vol. 2, September 23, 1993, p. 28.

[33] Petition in G.R. 158818, p. 17.

[34] Daily Time Card, Exhibit "G" and "G-1" for the respondent heirs.

[35] "Failure to maintain complete, timely and accurate records can constitute medical malpractice." Basics of Philippine Medical Jurisprudence and Ethics., 2010 ed. Bellosillo. J, Castro, B., Mapili E., Rebusa, A. & Rebusa, A., Central Book Supply, Inc., Quezon City.

[36] Exhibits "F" to "F-2" for the respondent heirs.

[37] G.R. No. 158996, November 14, 2008, 571 SCRA 83, 102.

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