

DR. MILAGROS L. CANTRE, PETITIONER, VS. SPS. JOHN DAVID Z. GO AND NORA S. GO, RESPONDENTS. D E C I S I O N

G.R. No. 160889. April 27, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari are the Decision[1] dated October 3, 2002 and Resolution[2] dated November 19, 2003 of the Court of Appeals in CA-G.R. CV No. 58184, which affirmed with modification the Decision[3] dated March 3, 1997 of the Regional Trial Court of Quezon City, Branch 98, in Civil Case No. Q-93-16562.

The facts, culled from the records, are as follows:

Petitioner Dr. Milagros L. Cantre is a specialist in Obstetrics and Gynecology at the Dr. Jesus Delgado Memorial Hospital. She was the attending physician of respondent Nora S. Go, who was admitted at the said hospital on April 19, 1992.

At 1:30 a.m. of April 20, 1992, Nora gave birth to her fourth child, a baby boy. However, at around 3:30 a.m., Nora suffered profuse bleeding inside her womb due to some parts of the placenta which were not completely expelled from her womb after delivery. Consequently, Nora suffered hypovolemic shock, resulting in a drop in her blood pressure to "40" over "0." Petitioner and the assisting resident physician performed various medical procedures to stop the bleeding and to restore Nora's blood pressure. Her blood pressure was frequently monitored with the use of a sphygmomanometer. While petitioner was massaging Nora's uterus for it to contract and stop bleeding, she ordered a droplight to warm Nora and her baby.[4]Nora remained unconscious until she recovered.

While in the recovery room, her husband, respondent John David Z. Go noticed a fresh gaping wound two and a half (2 ½) by three and a half (3 ½) inches in the inner portion of her left arm, close to the armpit.[5]He asked the nurses what caused the injury. He was informed it was a burn. Forthwith, on April 22, 1992, John David filed a request for investigation.[6]In response, Dr. Rainerio S. Abad, the medical director of the hospital, called petitioner and the assisting resident physician to explain what happened. Petitioner said the blood pressure cuff caused the injury.

On May 7, 1992, John David brought Nora to the National Bureau of Investigation for a physical examination, which was conducted by medico-legal officer Dr. Floresto Arizala, Jr.[7]The medico-legal officer later testified that Nora's injury appeared to be a burn and that a droplight when placed near the skin for about 10 minutes could cause such burn.[8]He dismissed the likelihood that the wound was caused by a blood pressure cuff as the scar was not around the arm, but just on one side of the arm.[9]

On May 22, 1992, Nora's injury was referred to a plastic surgeon at the Dr. Jesus Delgado Memorial Hospital for skin grafting.[10] Her wound was covered with skin sourced from her abdomen, which consequently bore a scar as well. About a year after, on April 30, 1993, scar revision had to be performed at the same hospital.[11]The surgical operation left a healed linear scar in Nora's left arm about three inches in length, the thickest portion

rising about one-fourth (1/4) of an inch from the surface of the skin. The costs of the skin grafting and the scar revision were shouldered by the hospital.[12]

Unfortunately, Nora's arm would never be the same. Aside from the unsightly mark, the pain in her left arm remains. When sleeping, she has to cradle her wounded arm. Her movements now are also restricted. Her children cannot play with the left side of her body as they might accidentally bump the injured arm, which aches at the slightest touch. Thus, on June 21, 1993, respondent spouses filed a complaint[13] for damages against petitioner, Dr. Abad, and the hospital. Finding in favor of respondent spouses, the trial court decreed:

In view of the foregoing consideration, judgment is hereby rendered in favor of the plaintiffs and against the defendants, directing the latters, (sic) jointly and severally -(a) to pay the sum of Five Hundred Thousand Pesos (P500,000.00) in moral damages;(b) to pay the sum of One Hundred Fifty Thousand Pesos (P150,000.00) exemplary damages;(c) to pay the sum of Eighty Thousand Pesos (P80,000.00) nominal damages;(d) to pay Fifty Thousand Pesos (P50,000.00) for and as attorney's fees; and(e) to pay Six Thousand Pesos (P6,000.00) litigation expenses.

SO ORDERED.[14]

Petitioner, Dr. Abad, and the hospital all appealed to the Court of Appeals, which affirmed with modification the trial court decision, thus:

WHEREFORE, in view of all the foregoing, and finding no reversible error in the appealed Decision dated March 3, 1997 of Branch 98 of the Regional Trial Court of Quezon City in Civil Case No. Q-93-16562, the same is hereby **AFFIRMED**, with the following **MODIFICATIONS**:

- Ordering defendant-appellant Dra. Milagros [L.] Cantre only to pay plaintiffs-appellees John David Go and Nora S. Go the sum of P200,000.00 as moral damages;
- Deleting the award [of] exemplary damages, attorney's fees and expenses of litigation;
- Dismissing the complaint with respect to defendants-appellants Dr. Rainerio S. Abad and Delgado Clinic, Inc.;
- Dismissing the counterclaims of defendants-appellants for lack of merit; and
- Ordering defendant-appellant Dra. Milagros [L.] Cantre only to pay the costs.

SO ORDERED.[15]

Petitioner's motion for reconsideration was denied by the Court of Appeals. Hence, the instant petition assigning the following as errors and issues:

I.

WHETHER OR NOT, THE LOWER COURT, AND THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF THEIR DISCRETION WHEN, NOTWITHSTANDING THAT BOTH PARTIES HAVE RESTED THEIR RESPECTIVE CASES, THE LOWER COURT ADMITTED THE ADDITIONAL EXHIBITS FURTHER OFFERED BY RESPONDENTS NOT TESTIFIED TO BY ANY WITNESS AND THIS DECISION OF THE LOWER COURT WAS UPHELD BY THE COURT OF APPEALS LIKEWISE COMMITTING GRAVE ABUSE OF DISCRETION;

II.

WHETHER OR NOT THE LOWER COURT COMMITTED GRAVE ABUSE OF ITS DISCRETION WHEN, CONTRARY TO PREPONDERANCE OF EVIDENCE PRESENTED BY THE PETITIONER, IT

RULED THAT THE PETITIONER HAS NOT AMPLY SHOWED THAT THE DROPLIGHT DID NOT TOUCH THE BODY OF MRS. NORA GO, AND THIS DECISION OF THE LOWER COURT WAS UPHELD BY THE COURT OF APPEALS LIKEWISE COMMITTING GRAVE ABUSE OF DISCRETION;

III.

WHETHER OR NOT THE LOWER COURT COMMITTED GRAVE ABUSE OF ITS DISCRETION WHEN, CONTRARY TO PREPONDERANCE OF EVIDENCE PRESENTED BY THE PETITIONER, IT RULED THAT PETITIONER DRA. CANTRE WAS NOT ABLE TO AMPLY EXPLAIN HOW THE INJURY (BLISTERS) IN THE LEFT INNER ARM OF RESPONDENT MRS. GO CAME ABOUT;

IV.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF ITS DISCRETION WHEN IT MADE A RULING ON THE RESPONDENT'S INJURY QUOTING THE TESTIMONY OF SOMEONE WHO WAS NOT PRESENT AND HAS NOT SEEN THE ORIGINAL, FRESH INJURY OF RESPONDENT MRS. NORA GO;

V.

WHETHER OR NOT THE COURT OF APPEALS GRAVELY ABUSING ITS DISCRETION RULED THAT PETITIONER DRA. CANTRE SHOULD HAVE INTENDED TO INFLICT THE INJURY TO SAVE THE LIFE OF RESPONDENT MRS. GO;

VI.

WHETHER OR NOT THE LOWER COURT AND THE COURT [OF] APPEALS COMMITTED GRAVE ABUSE OF DISCRETION WHEN, CONTRARY TO THE DETAILED PROCEDURES DONE BY PETITIONER, BOTH RULED THAT THE RESPONDENT WAS LEFT TO THE CARE OF THE NURSING STAFF;

VII.

WHETHER OR NOT THE LOWER COURT COMMITTED GRAVE ABUSE OF DISCRETION WHEN, CONTRARY TO THE MEDICAL PURPOSES OF COSMETIC SURGERY, IT RULED THAT THE COSMETIC SURGERY MADE THE SCARS EVEN MORE UGLY AND DECLARED THE COSMETIC SURGERY A FAILURE;

VIII.

WHETHER OR NOT THE LOWER COURT GRAVELY ABUSE OF (SIC) DISCRETION WHEN, CONTRARY TO RESPONDENTS' CONTRARY TESTIMONIES AND THE ABSENCE OF ANY TESTIMONY, IT RULED THAT THEY ARE ENTITLED TO DAMAGES AND WHICH WAS UPHELD, ALTHOUGH MODIFIED, BY THE COURT OF APPEALS LIKEWISE ABUSING ITS DISCRETION.[16]

Petitioner contends that additional documentary exhibits not testified to by any witness are inadmissible in evidence because they deprived her of her constitutional right to confront the witnesses against her. Petitioner insists the droplight could not have touched Nora's body. She maintains the injury was due to the constant taking of Nora's blood pressure. Petitioner also insinuates the Court of Appeals was misled by the testimony of the medico-legal officer who never saw the original injury before plastic surgery was performed. Finally, petitioner stresses that plastic surgery was not intended to restore respondent's injury to its original state but rather to prevent further complication.

Respondents, however, counter that the genuineness and due execution of the additional documentary exhibits were duly admitted by petitioner's counsel. Respondents point out that petitioner's blood pressure cuff theory is highly improbable, being unprecedented in medical history and that the injury was definitely caused by the

droplight. At any rate, they argue, even if the injury was brought about by the blood pressure cuff, petitioner was still negligent in her duties as Nora's attending physician.

Simply put, the threshold issues for resolution are: (1) Are the questioned additional exhibits admissible in evidence? (2) Is petitioner liable for the injury suffered by respondent Nora Go? Thereafter, the inquiry is whether the appellate court committed grave abuse of discretion in its assailed issuances.

As to the first issue, we agree with the Court of Appeals that said exhibits are admissible in evidence. We note that the questioned exhibits consist mostly of Nora's medical records, which were produced by the hospital during trial pursuant to a subpoena duces tecum. Petitioner's counsel admitted the existence of the same when they were formally offered for admission by the trial court. In any case, given the particular circumstances of this case, a ruling on the negligence of petitioner may be made based on the *res ipsa loquitur* doctrine even in the absence of such additional exhibits.

Petitioner's contention that the medico-legal officer who conducted Nora's physical examination never saw her original injury before plastic surgery was performed is without basis and contradicted by the records. Records show that the medico-legal officer conducted the physical examination on May 7, 1992, while the skin grafting and the scar revision were performed on Nora on May 22, 1992 and April 30, 1993, respectively.

Coming now to the substantive matter, is petitioner liable for the injury suffered by respondent Nora Go?

The Hippocratic Oath mandates physicians to give primordial consideration to the well-being of their patients. If a doctor fails to live up to this precept, he is accountable for his acts. This notwithstanding, courts face a unique restraint in adjudicating medical negligence cases because physicians are not guarantors of care and, they never set out to intentionally cause injury to their patients. However, intent is immaterial in negligence cases because where negligence exists and is proven, it automatically gives the injured a right to reparation for the damage caused.^[17]

In cases involving medical negligence, the doctrine of *res ipsa loquitur* allows the mere existence of an injury to justify a presumption of negligence on the part of the person who controls the instrument causing the injury, provided that the following requisites concur:

- The accident is of a kind which ordinarily does not occur in the absence of someone's negligence;
- It is caused by an instrumentality within the exclusive control of the defendant or defendants; and
- The possibility of contributing conduct which would make the plaintiff responsible is eliminated.^[18]

As to the first requirement, the gaping wound on Nora's arm is certainly not an ordinary occurrence in the act of delivering a baby, far removed as the arm is from the organs involved in the process of giving birth. Such injury could not have happened unless negligence had set in somewhere.

Second, whether the injury was caused by the droplight or by the blood pressure cuff is of no moment. Both instruments are deemed within the exclusive control of the physician in charge under the "captain of the ship" doctrine. This doctrine holds the surgeon in charge of an operation liable for the negligence of his assistants during the time when those assistants are under the surgeon's control.^[19] In this particular case, it can be logically inferred that petitioner, the senior consultant in charge during the delivery of Nora's baby, exercised control over the assistants assigned to both the use of the droplight and the taking of Nora's blood pressure. Hence, the use of the droplight and the blood pressure cuff is also within petitioner's exclusive control.

Third, the gaping wound on Nora's left arm, by its very nature and considering her condition, could only be caused by something external to her and outside her control as she was unconscious while in hypovolemic shock.

Hence, Nora could not, by any stretch of the imagination, have contributed to her own injury.

Petitioner's defense that Nora's wound was caused not by the droplight but by the constant taking of her blood pressure, even if the latter was necessary given her condition, does not absolve her from liability. As testified to by the medico-legal officer, Dr. Arizala, Jr., the medical practice is to deflate the blood pressure cuff immediately after each use. Otherwise, the inflated band can cause injury to the patient similar to what could have happened in this case. Thus, if Nora's wound was caused by the blood pressure cuff, then the taking of Nora's blood pressure must have been done so negligently as to have inflicted a gaping wound on her arm,[20] for which petitioner cannot escape liability under the "captain of the ship" doctrine.

Further, petitioner's argument that the failed plastic surgery was not intended as a cosmetic procedure, but rather as a measure to prevent complication does not help her case. It does not negate negligence on her part.

Based on the foregoing, the presumption that petitioner was negligent in the exercise of her profession stands un rebutted. In this connection, the Civil Code provides:

ART. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done....

ART. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

Clearly, under the law, petitioner is obliged to pay Nora for moral damages suffered by the latter as a proximate result of petitioner's negligence. We note, however, that petitioner has served well as Nora's obstetrician for her past three successful deliveries. This is the first time petitioner is being held liable for damages due to negligence in the practice of her profession. The fact that petitioner promptly took care of Nora's wound before infection and other complications set in is also indicative of petitioner's good intentions. We also take note of the fact that Nora was suffering from a critical condition when the injury happened, such that saving her life became petitioner's elemental concern. Nonetheless, it should be stressed that all these could not justify negligence on the part of petitioner.

Hence, considering the specific circumstances in the instant case, we find no grave abuse of discretion in the assailed decision and resolution of the Court of Appeals. Further, we rule that the Court of Appeals' award of Two Hundred Thousand Pesos (P200,000) as moral damages in favor of respondents and against petitioner is just and equitable.[21]

WHEREFORE, the petition is DENIED. The Decision dated October 3, 2002 and Resolution dated November 19, 2003 of the Court of Appeals in CA-G.R. CV No. 58184 are AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio Morales, Tinga and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 43-68.

[2] Id. at 40-41.

- [3] Records, pp. 218-227.
- [4] TSN, December 5, 1995, pp. 54-55.
- [5] TSN, June 25, 1996, p. 9
- [6] Exhibit "A," folder of exhibits, p. 1
- [7] TSN, September 16, 1994, p. 6; Exhibit "D," folder of exhibits,p. 7.
- [8] TSN, September 12, 1995, pp. 13-16.
- [9] Id.at 23.
- [10] Exhibit "L," folder of exhibits, p. 42.
- [11] TSN, January 31, 1994, pp. 35-36.
- [[12]] TSN, April 29, 1994, p. 16; TSN, June 25, 1996, p. 23.
- [13] Records, pp. 1-6.
- [14] Id. at 227.
- [15] Rollo, p. 67.
- [16] Id. at 169-171.
- [17] Ramos v. Court of Appeals, G.R. No. 124354, December 29, 1999, 321 SCRA 584, 628.
- [18] Id. at 600.
- [19] Black's Law Dictionary 192, (5[th] ed., 1979).
- [20] TSN, September 16, 1994, pp. 27-28.
- [21] See Child Learning Center, Inc. v. Tagorio, G.R. No. 150920, November 25, 2005, 476 SCRA 236, 240.

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