

**DY TEBAN TRADING, INC., Petitioner, vs. JOSE CHING AND/OR
LIBERTY FOREST, INC. and CRESILITO M. LIMBAGA, Respondents.**

G.R. No. 161803. February 04, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

THE vehicular collision resulting in damages and injuries in this case could have been avoided if the stalled prime mover with trailer were parked properly and equipped with an early warning device. It is high time We sounded the call for strict enforcement of the law and regulation on traffic and vehicle registration. Panahon na para mahigpit na ipatupad ang batas at regulasyon sa trapiko at pagpapatala ng sasakyan.

Before Us is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) modifying that[2] of the Regional Trial Court (RTC) in Butuan City finding private respondents Liberty Forest, Inc. and Cresilito Limbaga liable to petitioner Dy Teban Trading, Inc. for damages.

Facts

On July 4, 1995, at around 4:45 a.m., Rogelio Ortiz, with helper Romeo Catamora, was driving a Nissan van owned by petitioner Dy Teban Trading, Inc. along the National Highway in Barangay Sumilihon, Butuan City, going to Surigao City. They were delivering commercial ice to nearby barangays and municipalities. A Joana Paula passenger bus was cruising on the opposite lane towards the van. In between the two vehicles was a parked prime mover with a trailer, owned by private respondent Liberty Forest, Inc.[3]

The night before, at around 10:00 p.m., the prime mover with trailer suffered a tire blowout. The driver, private respondent Cresilito Limbaga, parked the prime mover askew occupying a substantial portion of the national highway, on the lane of the passenger bus. He parked the prime mover with trailer at the shoulder of the road with the left wheels still on the cemented highway and the right wheels on the sand and gravel shoulder of the highway.[4] The prime mover was not equipped with triangular, collapsible reflectorized plates, the early warning device required under Letter of Instruction No. 229. As substitute, Limbaga placed a banana trunk with leaves on the front and the rear portion of the prime mover to warn incoming motorists. It is alleged that Limbaga likewise placed kerosene lighted tin cans on the front and rear of the trailer.[5]

To avoid hitting the parked prime mover occupying its lane, the incoming passenger bus swerved to the right, onto the lane of the approaching Nissan van. Ortiz saw two bright and glaring headlights and the approaching passenger bus. He pumped his break slowly, swerved to the left to avoid the oncoming bus but the van hit the front of the stationary prime mover. The passenger bus hit the rear of the prime mover.[6]

Ortiz and Catamora only suffered minor injuries. The Nissan van, however, became inoperable as a result of the incident. After the collision, SPO4 Teofilo Pame conducted an investigation and submitted a police traffic incident investigation report.[7]

On October 31, 1995, petitioner Nissan van owner filed a complaint for damages[8] against private respondents

prime mover owner and driver with the RTC in Butuan City. The Joana Paula passenger bus was not impleaded as defendant in the complaint.

RTC Disposition

On August 7, 2001, the RTC rendered a decision in favor of petitioner Dy Teban Trading, Inc. with a fallo reading:

WHEREFORE, judgment is hereby rendered directing, ordaining and ordering:

- a) That defendants Liberty Forest, Inc. and Cresilito M. Limbaga pay, jointly and solidarily, plaintiff Dy Teban Trading, Inc. the amounts of P279,832.00 as actual and compensatory damages, P30,000.00 as attorney's fees and P5,000.00 as expenses of litigation;
- b) That all money claims of plaintiff Rogelio C. Ortiz are dismissed;
- c) That defendant Jose Ching is absolved from any civil liability or the case against him dismissed;
- d) That the counterclaim of all the defendants is dismissed; and
- e) That defendants Liberty Forest, Inc. and Cresilito M. Limbaga to pay, jointly and solidarily, the costs.

SO ORDERED.[9]

The RTC held that the proximate cause of the three-way vehicular collision was improper parking of the prime mover on the national highway and the absence of an early warning device on the vehicle, thus:

The court finds that the proximate cause of the incidents is the negligence and carelessness attributable to the defendants. When the trailer being pulled by the prime mover suffered two (2) flat tires at Sumilihon, the prime mover and trailer were parked haphazardly, as the right tires of the prime mover were the only ones on the sand and gravel shoulder of the highway while the left tires and all the tires of the trailer were on the cemented pavement of the highway, occupying almost the whole of the right lane on the direction the prime mover and trailer were traveling. The statement of Limbaga that he could not park the prime mover and trailer deeper into the sand and gravel shoulder of the highway to his right because there were banana plants is contradicted by the picture marked Exhibit "F." The picture shows that there was ample space on the shoulder. If defendant Limbaga was careful and prudent enough, he should have the prime mover and trailer traveled more distance forward so that the bodies of the prime mover and trailer would be far more on the shoulder rather than on the cemented highway when they were parked. x x x The court has some doubts on the statement of witness-driver Limbaga that there were banana trunks with leaves and lighted tin cans with crude oil placed 3 strides in front of the prime mover and behind the trailer because the testimonies of witnesses Rogelio C. Ortiz, driver of the ice van, Romeo D. Catamora, helper of the ice van, and Police Traffic Investigator SPO3 Teofilo M. Pame show that there were no banana trunks with leaves and lighted tin cans at the scene of the incident. But even assuming that there were banana trunks with leaves but they were placed close to the prime mover and trailer as they were placed 3 strides away which to the mind of the court is equivalent approximately to 3 meters and with this distance, approaching vehicles would have no sufficient time and space to make a complete stop, especially if the vehicles are heavy and loaded. If there were lighted tin cans, it was not explained by the defendants why the driver, especially driver witness Ortiz, did not see them.

x x x x

Defendant Liberty Forest, Inc. did not exercise the diligence of a good father of a family in managing and running its business. The evidence on record shows that it failed to provide its prime mover and trailer with the required "early warning devices" with reflectors and it did not keep proper maintenance and condition of the prime mover and the trailer. The circumstances show that the trailer were provided with wornout tires and with only one (1) piece of spare tire. The pictures marked Exhibit "3" and "4" show that two (2) flat tires suffered

by the trailer and these two (2) tires were attached to one of the two (2) I-beams or axles attached to the rear of the trailer which axle is very near but behind the other axle and with the location of the 2 I-beams, it would have the other I-beam that would have suffered the flat tires as it has to bear the brunt of weight of the D-8 bulldozer. The bulldozer was not loaded directly above the two (2) I-beams as 2 I-beams, as a pair, were attached at the far rear end of the trailer.

x x x x

However, defendant Jose Ching should be absolved of any liability as there is no showing that he is the manager or CEO of defendant Liberty Forest, Inc. Although in the answer, it is admitted that he is an officer of the defendant corporation, but it is not clarified what kind of position he is holding, as he could be an officer as one of the members of the Board of Directors or a cashier and treasurer of the corporation. Witness Limbaga in his testimony mentioned a certain Boy Ching as the Manager but it was never clarified whether or not Boy Ching and defendant Jose Ching is one and the same person.[10] Private respondents appealed to the CA.

CA Disposition

On August 28, 2003, the CA reversed the RTC decision, disposing as follows:

WHEREFORE, premises considered, the decision dated August 7, 2001 of the Regional Trial Court, Branch 2, Butuan City in Civil Case No. 4360 is hereby PARTLY MODIFIED by absolving the defendants-appellants/appellees of any liability to plaintiffs-appellants/appellees by reason of the incident on July 4, 1995.

The dismissal of the case against Jose Ching, the counterclaim of defendants-appellants/appellees and the money claim of Rogelio Ortiz STANDS.

SO ORDERED.[11]

In partly reversing or partly modifying the RTC decision, the CA held that the proximate cause of the vehicular collision was the failure of the Nissan van to give way or yield to the right of way of the passenger bus, thus:

It was stated that the Joana Paula bus in trying to avoid a head-on collision with the truck, sideswiped the parked trailer loaded with bulldozer.

Evidently, the driver of the Joana Paula bus was aware of the presence on its lane of the parked trailer with bulldozer. For this reason, it proceeded to occupy what was left of its lane and part of the opposite lane. The truck occupying the opposite lane failed to give way or yield the right of way to the oncoming bus by proceeding with the same speed. The two vehicles were, in effect, trying to beat each other in occupying a single lane. The bus was the first to occupy the said lane but upon realizing that the truck refused to give way or yield the right of way, the bus, as a precaution, geared to its right where the trailer was parked. Unfortunately, the bus miscalculated its distance from the parked trailer and its rear right side hit the protruding blade of the bulldozer then on the top of the parked trailer. The impact of the collision on its right rear side with the blade of the bulldozer threw the bus further to the opposite lane, landing its rear portion on the shoulder of the opposite lane.

x x x x

Facts of the case reveal that when Ortiz, the driver of the truck, failed to give the Joana Paula bus the space on the road it needed, the latter vehicle scraped its rear right side on the protruded bulldozer blade and the impact threw the bus directly on the path of the oncoming truck. This made plaintiffs-appellants/appellees conclude that the Joana Paula bus occupied its lane which forced Ortiz, the driver of the truck, to swerve to its left and ram the front of the parked trailer.

x x x x

The trailer was parked because its two (2) rear-left tires were blown out. With a bulldozer on top of the trailer and two (2) busted tires, it would be dangerous and quite impossible for the trailer to further park on the graveled shoulder of the road. To do so will cause the flat car to tilt and may cause the bulldozer to fall from where it was mounted. In fact, it appeared that the driver of the trailer tried its best to park on the graveled shoulder since the right-front tires were on the graveled shoulder of the road.

The lower court erred in stating that the Joana Paula bus swerved to the left of the truck because it did not see the parked trailer due to lack of warning sign of danger of any kind that can be seen from a distance. The damage suffered by the Joana Paula bus belied this assessment. As stated before, the Joana Paula bus, with the intention of passing first which it did, first approached the space beside the parked trailer, veered too close to the parked trailer thereby hitting its rear right side on the protruding bulldozer blade. Since the damage was on the rear right most of the bus, it was clearly on the space which was wide enough for a single passing vehicle but not sufficient for two (2) passing vehicles. The bus was thrown right to the path of the truck by the impact of the collision of its rear right side with the bulldozer blade.[12]

The CA disagreed with the RTC that the prime mover did not have an early warning device. The appellate court accepted the claim of private respondent that Limbaga placed kerosene lighted tin cans on the front and rear of the trailer which, in *Baliwag Transit, Inc. v. Court of Appeals*, [13] may act as substitute early warning device. The CA stated:

Likewise, it was incorrect for the lower court to state that there was no warning sign of danger of any kind, most probably referring to the absence of the triangular reflectorized plates. The police sketch clearly indicated the stack of banana leaves placed at the rear of the parked trailer. The trailer's driver testified that they placed kerosene lighted tin can at the back of the parked trailer.

A pair of triangular reflectorized plates is not the only early warning device allowed by law. The Supreme Court (in *Baliwag Transit, Inc. v. Court of Appeals*) held that: "x x x Col. Dela Cruz and Romano testified that they did not see any early warning device at the scene of the accident. They were referring to the triangular reflectorized plates in red and yellow issued by the Land Transportation Office. However, the evidence shows that Recontique and Ecala placed a kerosene lamp or torch at the edge of the road, near the rear portion of the truck to serve as an early warning device. This substantially complies with Section 34(g) of the Land Transportation and Traffic Code x x x

Baliwag's argument that the kerosene lamp or torch does not substantially comply with the law is untenable. The aforequoted law clearly allows the use not only of an early warning device of the triangular reflectorized plates' variety but also parking lights or flares visible one hundred meters away. x x x."

This Court holds that the defendants-appellants/appellees were not negligent in parking the trailer on the scene of the accident. It would have been different if there was only one flat tire and defendant-appellant/appellee Limbaga failed to change the same and left immediately.

As such, defendants-appellants/appellees are not liable for the damages suffered by plaintiffs-appellants/appellees. Whatever damage plaintiffs-appellants/appellees suffered, they alone must bear them.[14]

Issues

Petitioner raises two issues[15] for Our consideration, to wit:

I.

THE HONORABLE COURT OF APPEALS, WITHOUT ANY AVAILABLE CONCRETE EVIDENCE,

ERRONEOUSLY DETERMINED THAT THERE WERE EARLY WARNING DEVICES PLACED IN FRONT OF THE DEFENDANT-APPELLANTS/APPELLEES' TRUCK AND FLAT CAR TO WARN PLAINTIFF-APPELLANT/APPELLEE ROGELIO ORTIZ OF THEIR PRESENCE.

II.

WITH DUE RESPECT, IT IS HIGH TIME TO ENFORCE THE LAW ON EARLY WARNING DEVICES IN THE PUBLIC INTEREST.

Our Ruling

The petition is meritorious.

The meat of the petition is whether or not the prime mover is liable for the damages suffered by the Nissan van. The RTC ruled in the affirmative holding that the proximate cause of the vehicular collision was the negligence of Limbaga in parking the prime mover on the national highway without an early warning device on the vehicle. The CA reversed the RTC decision, holding that the proximate cause of the collision was the negligence of Ortiz in not yielding to the right of way of the passenger bus.

Article 2176 of the Civil Code provides that whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict. To sustain a claim based on quasi-delict, the following requisites must concur: (a) damage suffered by plaintiff; (b) fault or negligence of defendant; and (c) connection of cause and effect between the fault or negligence of defendant and the damage incurred by plaintiff.[16]

There is no dispute that the Nissan van suffered damage. That is borne by the records and conceded by the parties. The outstanding issues are negligence and proximate cause. Tersely put, the twin issues are: (a) whether or not prime mover driver Limbaga was negligent in parking the vehicle; and (b) whether or not his negligence was the proximate cause of the damage to the Nissan van.

Limbaga was negligent in parking the prime mover on the national highway; he failed to prevent or minimize the risk to oncoming motorists.

Negligence is defined as the failure to observe for the protection of the interests of another person that degree of care, precaution, and vigilance which the circumstances justly demand, whereby such other person suffers injury.[17] The Supreme Court stated the test of negligence in the landmark case *Picart v. Smith*[18] as follows:

The test by which to determine the existence or negligence in a particular case may be stated as follows: Did the defendant in doing the alleged negligent act use that reasonable care and caution which an ordinary person would have used in the same situation? If not, then he is guilty of negligence. The law here in effect adopts the standard supposed to be supplied by the imaginary conduct of the discreet paterfamilias of the Roman law. The existence of negligence in a given case is not determined by reference to the personal judgment of the actor in the situation before him. The law considers what would be reckless, blameworthy, or negligent in the man of ordinary intelligence and prudence and determines liability by that. (Underscoring supplied)

The test of negligence is objective. We measure the act or omission of the tortfeasor with that of an ordinary reasonable person in the same situation. The test, as applied to this case, is whether Limbaga, in parking the prime mover, used that reasonable care and caution which an ordinary reasonable person would have used in the same situation.

We find that Limbaga was utterly negligent in parking the prime mover askew on the right side of the national highway. The vehicle occupied a substantial portion of the national road on the lane of the passenger bus. It was

parked at the shoulder of the road with its left wheels still on the cemented highway and the right wheels on the sand and gravel shoulder of the highway. It is common sense that the skewed parking of the prime mover on the national road posed a serious risk to oncoming motorists. It was incumbent upon Limbaga to take some measures to prevent that risk, or at least minimize it.

We are unable to agree with the CA conclusion “it would have been dangerous and quite impossible to further park the prime mover on the graveled shoulder of the road because the prime mover may tilt and the bulldozer may fall off.” The photographs taken after the incident show that it could have been possible for Limbaga to park the prime mover completely on the shoulder of the national road without risk to oncoming motorists. We agree with the RTC observation on this point, thus:

x x x The statement of Limbaga that he could not park the prime mover and trailer deeper into the sand and gravel shoulder of the highway to his right because there were banana plants is contradicted by the picture marked Exhibit “F.” The picture shows that there was ample space on the shoulder. If defendant Limbaga was careful and prudent enough, he should have the prime mover and trailer traveled more distance forward so that the bodies of the prime mover and trailer would be far more on the shoulder rather than on the cemented highway when they were parked. Although at the time of the incident, it was about 4:45 in the morning and it was drizzling but there is showing that it was pitch dark that whoever travels along the highway must be extra careful. If the Joana Paula bus swerved to the lane on which the “Nissan” ice van was properly traveling, as prescribed by Traffic Rules and Regulations, it is because the driver of the bus did not see at a distance the parked prime mover and trailer on the bus’ proper lane because there was no warning signs of danger of any kind that can be seen from a distance.[19]

Limbaga also failed to take proper steps to minimize the risk posed by the improperly parked prime mover. He did not immediately inform his employer, private respondent Liberty Forest, Inc., that the prime mover suffered two tire blowouts and that he could not have them fixed because he had only one spare tire. Instead of calling for help, Limbaga took it upon himself to simply place banana leaves on the front and rear of the prime mover to serve as warning to oncoming motorists. Worse, Limbaga slept on the prime mover instead of standing guard beside the vehicle. By his own account, Limbaga was sleeping on the prime mover at the time of the collision and that he was only awakened by the impact of the Nissan van and the passenger bus on the prime mover.[20]

Limbaga also admitted on cross-examination that it was his first time to drive the prime mover with trailer loaded with a D-8 caterpillar bulldozer.[21] We find that private respondent Liberty Forest, Inc. was utterly negligent in allowing a novice driver, like Limbaga, to operate a vehicle, such as a truck loaded with a bulldozer, which required highly specialized driving skills. Respondent employer clearly failed to properly supervise Limbaga in driving the prime mover.

The RTC noted that private respondent Liberty Forest, Inc. also failed to keep the prime mover in proper condition at the time of the collision. The prime mover had worn out tires. It was only equipped with one spare tire. It was for this reason that Limbaga was unable to change the two blown out tires because he had only one spare. The bulldozer was not even loaded properly on the prime mover, which caused the tire blowouts.

All told, We agree with the RTC that private respondent Limbaga was negligent in parking the prime mover on the national highway. Private respondent Liberty Forest, Inc. was also negligent in failing to supervise Limbaga and in ensuring that the prime mover was in proper condition.

The case of Baliwag Transit, Inc. v. Court of Appeals is inapplicable; Limbaga did not put lighted kerosene tin cans on the front and rear of the prime mover.

Anent the absence of an early warning device on the prime mover, the CA erred in accepting the bare testimony

of Limbaga that he placed kerosene lighted tin cans on the front and rear of the prime mover. The evidence on records belies such claim. The CA reliance on *Baliwag Transit, Inc. v. Court of Appeals*[22] as authority for the proposition that kerosene lighted tin cans may act as substitute early warning device is misplaced.

First, the traffic incident report did not mention any lighted tin cans on the prime mover or within the immediate vicinity of the accident. Only banana leaves were placed on the prime mover. The report reads:

VIII – RESULT OF INVESTIGATION: A Joana Paula Bus, with Body No. 7788, with Plate No. LVA-137, driven by one Temestocles Relova v. Antero, of legal age, married and a resident of San Roque, Kitcharao, Agusan del Norte, while traveling along the National Highway, coming from the east going to the west direction, as it moves along the way and upon reaching Brgy. Sumilihon, Butuan City to evade bumping to the approaching Nissan Ice Van with Plate No. PNT-247, driven by one Rogelio Cortez y Ceneza. As the result, the Joana Paula Bus accidentally busideswept (sic) to the parked Prime Mover with Trailer loaded with Bulldozer without early warning device, instead placing only dry banana leaves three (3) meters at the rear portion of the Trailer, while failure to place at the front portion, and the said vehicle occupied the whole lane. As the result, the Joana Paula Bus hit to the left edge blade of the Bulldozer. Thus, causing the said bus swept to the narrow shouldering, removing the rear four (4) wheels including the differential and injuring the above-stated twelve (12) passengers and damaged to the right side fender above the rear wheel. Thus, causing damage on it. While the Nissan Ice Van in evading, accidentally swerved to the left lane and accidentally bumped to the front bumper of the parked Prime Mover with Trailer loaded with Bulldozer. Thus, causing heavy damage to said Nissan Ice Van including the cargoes of the said van.[23]

Second, SPO4 Pame, who investigated the collision, testified[24] that only banana leaves were placed on the front and rear of the prime mover. He did not see any lighted tin cans in the immediate vicinity of the collision.

Third, the claim of Limbaga that he placed lighted tin cans on the front and rear of the prime mover belatedly surfaced only during his direct examination. No allegation to this effect was made by private respondents in their Answer to the complaint for damages. Petitioner's counsel promptly objected to the testimony of Limbaga, thus:

ATTY. ROSALES:

Q. Now you mentioned about placing some word signs in front and at the rear of the prime mover with trailer, will you please describe to us what this word signs are?

A. We placed a piece of cloth on tin cans and filled them with crude oil. And these tin cans were lighted and they are like torches. These two lights or torches were placed in front and at the rear side of the prime mover with trailer. After each torch, we placed banana trunk. The banana trunk is placed between the two (2) torches and the prime mover, both on the rear and on the front portion of the prime mover.

Q. How far was the lighted tin cans with wick placed in front of the prime mover.

ATTY. ASIS:

At this point, we will be objecting to questions particularly referring to the alleged tin cans as some of the warning-sign devices, considering that there is no allegation to that effect in the answer of the defendants. The answer was just limited to the numbers 4 & 5 of the answer. And, therefore, if we follow the rule of the binding effect of an allegation in the complaint, then the party will not be allowed to introduce evidence to attack jointly or rather the same, paragraph 5 states, warning device consisting of 3 banana trunks, banana items and leaves were filed. He can be cross-examined in the point, Your Honor.

COURT:

Q. Put that on record that as far as this tin cans are concerned, the plaintiffs are interposing continuing objections. But the Court will allow the question.[25]

We thus agree with the RTC that Limbaga did not place lighted tin cans on the front and rear of the prime mover. We give more credence to the traffic incident report and the testimony of SPO4 Pame that only banana leaves were placed on the vehicle. *Baliwag Transit, Inc. v. Court of Appeals*[26] thus finds no application to the case at bar.

The skewed parking of the prime mover was the proximate cause of the collision.

Proximate cause is defined as that cause, which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred. More comprehensively, proximate cause is that cause acting first and producing the injury, either immediately or by setting other events in motion, all constituting a natural and continuous chain of events, each having a close causal connection with its immediate predecessor, the final event in the chain immediately effecting the injury as natural and probable result of the cause which first acted, under such circumstances that the person responsible for the first event should, as an ordinarily prudent and intelligent person, have reasonable ground to expect at the moment of his act or default that an injury to some person might probably result therefrom.[27]

There is no exact mathematical formula to determine proximate cause. It is based upon mixed considerations of logic, common sense, policy and precedent.[28] Plaintiff must, however, establish a sufficient link between the act or omission and the damage or injury. That link must not be remote or far-fetched; otherwise, no liability will attach. The damage or injury must be a natural and probable result of the act or omission. In the precedent-setting *Vda. de Bataclan v. Medina*,[29] this Court discussed the necessary link that must be established between the act or omission and the damage or injury, viz.:

It may be that ordinarily, when a passenger bus overturns, and pins down a passenger, merely causing him physical injuries, if through some event, unexpected and extraordinary, the overturned bus is set on fire, say, by lightning, or if some highwaymen after looting the vehicle sets it on fire, and the passenger is burned to death, one might still contend that the proximate cause of his death was the fire and not the overturning of the vehicle. But in the present case and under the circumstances obtaining in the same, we do not hesitate to hold that the proximate cause of the death of Bataclan was the overturning of the bus, this for the reason that when the vehicle turned not only on its side but completely on its back, the leaking of the gasoline from the tank was not unnatural or unexpected; that the coming of the men with a lighted torch was in response to the call for help, made not only by the passengers, but most probably, by the driver and the conductor themselves, and that because it was very dark (about 2:30 in the morning), the rescuers had to carry a light with them; and coming as they did from a rural area where lanterns and flashlights were not available, they had to use a torch, the most handy and available; and what was more natural than that said rescuers should innocently approach the overturned vehicle to extend the aid and effect the rescue requested from them. In other words, the coming of the men with the torch was to be expected and was natural sequence of the overturning of the bus, the trapping of some of its passengers' bus, the trapping of some of its passengers and the call for outside help.

The ruling in *Bataclan* has been repeatedly cited in subsequent cases as authority for the proposition that the damage or injury must be a natural or probable result of the act or omission. Here, We agree with the RTC that the damage caused to the Nissan van was a natural and probable result of the improper parking of the prime mover with trailer. As discussed, the skewed parking of the prime mover posed a serious risk to oncoming motorists. Limbaga failed to prevent or minimize that risk. The skewed parking of the prime mover triggered the series of events that led to the collision, particularly the swerving of the passenger bus and the Nissan van.

Private respondents Liberty Forest, Inc. and Limbaga are liable for all damages that resulted from the skewed parking of the prime mover. Their liability includes those damages resulting from precautionary measures taken by other motorist in trying to avoid collision with the parked prime mover. As We see it, the passenger bus swerved to the right, onto the lane of the Nissan van, to avoid colliding with the improperly parked prime mover.

The driver of the Nissan van, Ortiz, reacted swiftly by swerving to the left, onto the lane of the passenger bus, hitting the parked prime mover. Ortiz obviously would not have swerved if not for the passenger bus abruptly occupying his van's lane. The passenger bus, in turn, would not have swerved to the lane of the Nissan van if not for the prime mover improperly parked on its lane. The skewed parking is the proximate cause of the damage to the Nissan van.

In *Phoenix Construction, Inc. v. Intermediate Appellate Court*,^[30] this Court held that a similar vehicular collision was caused by the skewed parking of a dump truck on the national road, thus:

The conclusion we draw from the factual circumstances outlined above is that private respondent Dionisio was negligent the night of the accident. He was hurrying home that night and driving faster than he should have been. Worse, he extinguished his headlights at or near the intersection of General Lacuna and General Santos Streets and thus did not see the dump truck that was parked askew and sticking out onto the road lane.

Nonetheless, we agree with the Court of First Instance and the Intermediate Appellate Court that the legal and proximate cause of the accident and of Dionisio's injuries was the wrongful or negligent manner in which the dump truck was parked – in other words, the negligence of petitioner Carbonel. That there was a reasonable relationship between petitioner Carbonel's negligence on the one hand and the accident and respondent's injuries on the other hand, is quite clear. Put in a slightly different manner, the collision of Dionisio's car with the dump truck was a natural and foreseeable consequence of the truck driver's negligence.

x x x x

We believe, secondly, that the truck driver's negligence far from being a "passive and static condition" was rather an indispensable and efficient cause. The collision between the dump truck and the private respondent's car would in all probability not have occurred had the dump truck not been parked askew without any warning lights or reflector devices. The improper parking of the dump truck created an unreasonable risk of injury for anyone driving down General Lacuna Street and for having so created this risk, the truck driver must be held responsible. In our view, Dionisio's negligence, although later in point of time than the truck driver's negligence and, therefore, closer to the accident, was not an efficient intervening or independent cause. What the Petitioner describes as an "intervening cause" was no more than a foreseeable consequence of the risk created by the negligent manner in which the truck driver had parked the dump truck. In other words, the petitioner truck driver owed a duty to private respondent Dionisio and others similarly situated not to impose upon them the very risk the truck driver had created. Dionisio's negligence was not of an independent and overpowering nature as to cut, as it were, the chain of causation in fact between the improper parking of the dump truck and the accident, nor to sever the *juris vinculum* of liability. x x x (Underscoring supplied)

We cannot rule on the proportionate or contributory liability of the passenger bus, if any, because it was not a party to the case; joint tortfeasors are solidarily liable.

The CA also faults the passenger bus for the vehicular collision. The appellate court noted that the passenger bus was "aware" of the presence of the prime mover on its lane, but it still proceeded to occupy the lane of the Nissan van. The passenger bus also miscalculated its distance from the prime mover when it hit the vehicle.

We cannot definitively rule on the proportionate or contributory liability of the Joana Paula passenger bus vis-à-vis the prime mover because it was not a party to the complaint for damages. Due process dictates that the passenger bus must be given an opportunity to present its own version of events before it can be held liable. Any contributory or proportionate liability of the passenger bus must be litigated in a separate action, barring any defense of prescription or laches. Insofar as petitioner is concerned, the proximate cause of the collision was the improper parking of the prime mover. It was the improper parking of the prime mover which set in motion the series of events that led to the vehicular collision.

Even granting that the passenger bus was at fault, it's fault will not necessarily absolve private respondents from liability. If at fault, the passenger bus will be a joint tortfeasor along with private respondents. The liability of joint tortfeasors is joint and solidary. This means that petitioner may hold either of them liable for damages from the collision. In *Philippine National Construction Corporation v. Court of Appeals*,^[31] this Court held:

According to the great weight of authority, where the concurrent or successive negligent acts or omission of two or more persons, although acting independently of each other, are, in combination, the direct and proximate cause of a single injury to a third person and it is impossible to determine in what proportion each contributed to the injury, either is responsible for the whole injury, even though his act alone might not have caused the entire injury, or the same damage might have resulted from the acts of the other tort-feasor x x x.

In *Far Eastern Shipping Company v. Court of Appeals*, the Court declared that the liability of joint tortfeasors is joint and solidary, to wit:

It may be said, as a general rule, that negligence in order to render a person liable need not be the sole cause of an injury. It is sufficient that his negligence, concurring with one or more efficient causes other than plaintiff's, is the proximate cause of the injury. Accordingly, where several causes combine to produce injuries, a person is not relieved from liability because he is responsible for only one of them, it being sufficient that the negligence of the person charged with injury is an efficient cause without which the injury would not have resulted to as great an extent, and that such cause is not attributable to the person injured. It is no defense to one of the concurrent tortfeasors that the injury would not have resulted from his negligence alone, without the negligence or wrongful acts of the other concurrent tortfeasors. Where several causes producing an injury are concurrent and each is an efficient cause without which the injury would not have happened, the injury may be attributed to all or any of the causes and recovery may be had against any or all of the responsible persons although under the circumstances of the case, it may appear that one of them was more culpable, and that the duty owed by them to the injured person was not the same. No actor's negligence ceases to be a proximate cause merely because it does not exceed the negligence of other actors. Each wrongdoer is responsible for the entire result and is liable as though his acts were the sole cause of the injury.

There is no contribution between joint tortfeasors whose liability is solidary since both of them are liable for the total damage. Where the concurrent or successive negligent acts or omissions of two or more persons, although acting independently, are in combination with the direct and proximate cause of a single injury to a third person, it is impossible to determine in what proportion each contributed to the injury and either of them is responsible for the whole injury. Where their concurring negligence resulted in injury or damage to a third party, they become joint tortfeasors and are solidarily liable for the resulting damage under Article 2194 of the Civil Code. (Underscoring supplied)

All told, all the elements of quasi delict have been proven by clear and convincing evidence. The CA erred in absolving private respondents from liability for the vehicular collision.

Final Note

It is lamentable that the vehicular collision in this case could have been easily avoided by following basic traffic rules and regulations and road safety standards. In hindsight, private respondent Limbaga could have prevented the three-way vehicular collision if he had properly parked the prime mover on the shoulder of the national road. The improper parking of vehicles, most especially along the national highways, poses a serious and unnecessary risk to the lives and limbs of other motorists and passengers. Drivers owe a duty of care to follow basic traffic rules and regulations and to observe road safety standards. They owe that duty not only for their own safety, but also for that of other motorists. We can prevent most vehicular accidents by simply following basic traffic rules and regulations.

We also note a failure of implementation of basic safety standards, particularly the law on early warning devices.

This applies even more to trucks and big vehicles, which are prone to mechanical breakdown on the national highway. The law, as crafted, requires vehicles to be equipped with triangular reflectorized plates.[32] Vehicles without the required early warning devices are ineligible for registration.[33] Vehicle owners may also be arrested and fined for non-compliance with the law.[34]

The Land Transportation Office (LTO) owes a duty to the public to ensure that all vehicles on the road meet basic and minimum safety features, including that of early warning devices. It is most unfortunate that We still see dilapidated and rundown vehicles on the road with substandard safety features. These vehicles not only pose a hazard to the safety of their occupants but that of other motorists. The prime mover truck in this case should not have been granted registration because it failed to comply with the minimum safety features required for vehicles on the road.

It is, indeed, time for traffic enforcement agencies and the LTO to strictly enforce all pertinent laws and regulations within their mandate.

WHEREFORE, the petition is GRANTED. The Court of Appeals decision dated August 28, 2003 is hereby SET ASIDE. The RTC decision dated August 7, 2001 is REINSTATED IN FULL.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Corona, and Nachura, JJ., concur.

[1] Rollo, pp. 39-50-A.

[2] Id. at 68-108.

[3] Id. at 72-73.

[4] Id. at 89-90.

[5] Id. at 90.

[6] Id. at 72-74.

[7] Id. at 45-46.

[8] Id. at 52-57.

[9] Id. at 107-108.

[10] Id. at 101-107.

[11] Id. at 50.

[12] Id. at 46-48.

[13] G.R. No. 116110, May 15, 1996, 256 SCRA 746.

[14] Rollo, pp. 48-50.

[15] Id. at 26, 29.

[16] Philippine Bank of Commerce v. Court of Appeals, G.R. No. 97626, March 14, 1997, 269 SCRA 695, 702-703.

[17] *Corliss v. Manila Railroad Company*, G.R. No. L-21291, March 28, 1969, 27 SCRA 674, 680.

[18] 37 Phil. 809, 813 (1918).

[19] *Rollo*, p. 102.

[20] *Id.* at 90-91.

[21] *Id.* at 93.

[22] *Supra* note 13.

[23] *Id.* at 275.

[24] *Id.* at 83.

[25] *Id.* at 262-263.

[26] *Supra* note 13.

[27] *Vda. de Bataclan v. Medina*, 102 Phil. 181 (1957), citing 38 Am. Jur. 695-696.

[28] *Mercury Drug v. Baking*, G.R. No. 156037, May 25, 2007.

[29] *Supra*.

[30] G.R. No. L-65295, March 10, 1987, 148 SCRA 353, 365-367.

[31] G.R. No. 159270, August 22, 2005, 467 SCRA 569, 582-583.

[32] *Rollo*, pp. 29-30. Letter of Instruction No. 229.

[33] *Id.* at 32-34. Memorandum Circular Nos. 92-146.

[34] *Id.* at 31-32. LTO Memorandum dated October 16, 1995.

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