

OSCAR DEL CARMEN, JR., PETITIONER, VS. GERONIMO BACOY, GUARDIAN AND REPRESENTING THE CHILDREN, NAMELY: MARY MARJORIE B. MONSALUD, ERIC B. MONSALUD, METZIE ANN B. MONSALUD, KAREE...

G.R. No. 173870. April 25, 2012

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

In this Petition for Review on Certiorari,[1] the registered owner of a motor vehicle challenges the Decision[2] dated July 11, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 67764 which held him liable for damages to the heirs of the victims who were run over by the said vehicle.

Factual Antecedents

At dawn on New Year's Day of 1993, Emilia Bacoy Monsalud (Emilia), along with her spouse Leonardo Monsalud, Sr. and their daughter Glenda Monsalud, were on their way home from a Christmas party they attended in Poblacion, Sominot, Zamboanga Del Sur. Upon reaching Purok Paglaom in Sominot, they were run over by a Fuso passenger jeep bearing plate number UV-PEK-600 that was being driven by Allan Maglasang (Allan). The jeep was registered in the name of petitioner Oscar del Carmen, Jr. (Oscar Jr.) and used as a public utility vehicle plying the Molave, Zamboanga del Sur to Sominot, Zamboanga del Sur and vice versa route.

Because of the unfortunate incident, Criminal Case No. 93-10347[3] for Reckless Imprudence Resulting in Multiple Homicide was filed against Allan before the Regional Trial Court of Molave, Zamboanga del Sur, Branch 23. In a Decision dated March 13, 1997, said court declared Allan guilty beyond reasonable doubt of the crime charged.[4]

During the pendency of said criminal case, Emilia's father, Geronimo Bacoy (Geronimo), in behalf of the six minor children[5] of the Monsaluds, filed Civil Case No. 96-20219,[6] an independent civil action for damages based on culpa aquiliana. Aside from Allan, also impleaded therein were his alleged employers, namely, the spouses Oscar del Carmen, Sr. (Oscar Sr.) and Norma del Carmen (Spouses del Carmen) and the registered owner of the jeep, their son Oscar Jr. Geronimo prayed for the reimbursement of funeral and burial expenses, as well as the award of attorney's fees, moral and exemplary damages resulting from the death of the three victims, and loss of net income earnings of Emilia who was employed as a public school teacher at the time of her death.[7]

Defendants refused to assume civil liability for the victims' deaths. Oscar Sr. averred that the Monsaluds have no cause of action against them because he and his wife do not own the jeep and that they were never the employers of Allan.[8] For his part, Oscar Jr. claimed to be a victim himself. He alleged that Allan and his friends[9] stole his jeep while it was parked beside his driver's rented house to take it for a joyride. Both he and a vehicle mechanic testified that the subject jeep can easily be started by mere pushing sans the ignition key. The vehicle's engine shall then run but without any headlights on.[10] And implying that this was the manner by which the

vehicle was illegally taken, Oscar Jr. submitted as part of his documentary evidence the statements[11] of Jemar Alarcon (Jemar) and Benjamin Andujar (Benjamin). The two, who were with Allan in the jeep at the time of the accident, declared before the investigating officer that during said time, the vehicle's headlights were off. Because of this allegation, Oscar Jr. even filed before the same trial court a carjacking case against Allan and his companions docketed as Criminal Case No. 93-10380.[12] The case was, however, dismissed for insufficiency of evidence.[13]

Oscar Jr. clarified that Allan was his jeep conductor and that it was the latter's brother, Rodrigo Maglasang (Rodrigo), who was employed as the driver.[14] In any event, Allan's employment as conductor was already severed before the mishap occurred on January 1, 1993 since he served as such conductor only from the first week of December until December 14, 1992.[15] In support of this, Oscar Jr. presented as witnesses Faustino Sismundo (Faustino) and Cresencio "Junior" Baobao (Cresencio). Faustino, a resident of Molave, testified that when he boarded the jeep heading to Sominot on December 31, 1992, it was Cresencio who was the conductor. He also believed that Cresencio started to work as such at around December 15 or 16, 1992.[16] Cresencio, for his part, testified that he worked as Oscar Jr.'s conductor from December 15, 1992 to January 1, 1993 and that Rodrigo was his driver.[17] He stated that upon learning that the jeep figured in an accident, he never bothered to verify the news. Instead, he went to Midsalip to work there as a conductor for his brother's vehicle, thereby terminating his employment with Oscar Jr.[18]

Oscar Jr. likewise testified that it was routinary that after a day's trip, the jeep would be parked beside Rodrigo's rented house[19] for the next early-morning operation.

Geronimo, on the other hand, averred that Allan was still Oscar Jr.'s employee subsequent to December 14, 1992. To prove this, he presented as witnesses Saturnino Jumawan (Saturnino) and Jose Navarro (Jose). Saturnino testified that he would pay his fare to Allan every time he would board the jeep in going to Molave and that the last time he rode the subject vehicle was on December 23, 1992. He also claimed that immediately before January 1, 1993, Rodrigo and Allan used to park the jeep at the yard of his house.[20] Jose likewise attested that Allan was still the jeep conductor during the said period as he had ridden the jeep many times in mid-December of 1992.[21]

Ruling of the Regional Trial Court

In its Decision[22] dated April 17, 2000, the RTC exculpated the spouses del Carmen from civil liability for insufficiency of evidence. However, their son Oscar Jr. was held civilly liable in a subsidiary capacity. The RTC anchored its ruling primarily on the principle of *res ipsa loquitur*, i.e., that a presumption of negligence on the part of a defendant may be inferred if the thing that caused an injury is shown to be under his management and that in the ordinary course of things, the accident would not have happened had there been an exercise of care. Said court ratiocinated that Oscar Jr., as the registered owner of the jeep, managed and controlled the same through his driver Rodrigo, in whose house the jeep was usually parked. Since both Oscar Jr. and Rodrigo were well aware that the jeep could easily be started by a mere push even without the ignition key, they should have taken the necessary precaution to prevent the vehicle from being used by unauthorized persons like Allan. The RTC thus concluded that such lack of proper precaution, due care and foresight constitute negligence making the registered owner of the vehicle civilly liable for the damage caused by the same.

The RTC disposed of the case as follows:

Wherefore, judgment is hereby entered in favor of the plaintiffs and against the defendants Allan Maglasang and Oscar del Carmen, Jr. ordering –

- Defendant ALLAN MAGLASANG to pay the plaintiffs, and in case of insolvency, for defendant OSCAR DEL CARMEN, JR., to pay the plaintiffs, the following sums:

- P73,112.00 for their funeral and burial expenses;
- P1,000,000.00 moral damages for the death of the late Emilia Monsalud;
- P250,000.00 moral damages for the death of the late Leonardo Monsalud, Sr.;
- P250,000.00 moral damages for the death of the late Glenda Monsalud;
- P40, 000.00, for exemplary damages;
- P20,000.00 attorney's fees; and
- The cost of this proceedings.
- The dismissal of the complaint as against the spouses OSCAR DEL CARMEN SR. and NORMA DEL CARMEN.

SO ORDERED.[23]

Oscar Jr. moved for reconsideration[24] contending that the provision on vicarious liability of the employer under Article 2180 of the Civil Code[25] requires the existence of employer-employee relationship and that the employee was acting within the scope of his employment when the tort occurred. He stressed that even assuming that Allan was his employee, he was hired not as a driver but as a conductor. Hence, Allan acted beyond the scope of his employment when he drove the jeep.

Oscar Jr. also stressed that the fact that the jeep was running without its headlights on at the time of the accident indubitably shows that the same was stolen. He further alleged that the jeep could not have been taken by only one person. As Rodrigo declared in Criminal Case No. 93-10380 (carnapping case), based on his experience, the jeep cannot be pushed by only one person but by at least five people in order for it to start. This was due to the vehicle's mass and the deep canal which separates the parking area from the curved road that was obstructed by a house.[26]

Setting aside its earlier decision, the lower court in its Order[27] dated June 21, 2000 granted the Motion for Reconsideration and absolved Oscar Jr. from civil liability. It cited Article 103 of the Revised Penal Code which provides that for an employer to be subsidiarily liable for the criminal acts of his employee, the latter should have committed the same in the discharge of his duties. The court agreed with Oscar Jr. that this condition is wanting in Allan's case as he was not acting in the discharge of his duties as a conductor when he drove the jeep.

The court also declared the doctrine of *res ipsa loquitur* inapplicable since the property owner cannot be made responsible for the damages caused by his property by reason of the criminal acts of another. It then adjudged that only Allan should bear the consequences of his criminal acts. Thus:

WHEREFORE, premises considered, the MOTION FOR RECONSIDERATION is granted, and defendant OSCAR DEL CARMEN JR. is hereby absolved from all civil liability arising from the felonious acts of convicted accused ALLAN MAGLASANG.

IT IS SO ORDERED.[28]

Geronimo appealed.

Ruling of the Court of Appeals

In its July 11, 2006 Decision,[29] the CA granted the appeal.

In resolving the case, the CA first determined the preliminary issue of whether there was an employer-employee

relationship between Oscar Jr. and Allan at the time of the accident. It ruled in the affirmative and gave more credence to the testimonies of Geronimo's witnesses than to those of Oscar Jr.'s witnesses, Faustino and Cresencio. The CA ratiocinated that unlike the witness presented by Geronimo, Faustino never resided in Poblacion and thus has limited knowledge of the place. His testimony was also unreliable considering that he only rode the subject jeep twice^[30] during the last two weeks of December 1992. As regards Cresencio's testimony, the appellate court found it puzzling why he appeared to have acted uninterested upon learning that the jeep was the subject of an accident when it was his bread and butter. Said court likewise considered questionable Oscar Jr.'s asseveration that Cresencio replaced Allan as conductor when Cresencio testified that he replaced a certain Sumagang Jr.^[31]

With regard to the main issue, the CA adjudged Oscar Jr. liable to the heirs of the victims based on the principle that the registered owner of a vehicle is directly and primarily responsible for the injuries or death of third parties caused by the operation of such vehicle. It disbelieved Oscar Jr.'s defense that the jeep was stolen not only because the carnapping case filed against Allan and his companions was dismissed but also because, given the circumstances, Oscar Jr. is deemed to have given Allan the implied permission to use the subject vehicle. To support its conclusion, the CA cited the following circumstances: siblings Rodrigo and Allan were both employees assigned to the said jeep; after a day's work, said vehicle would be parked just beside Rodrigo's house where Allan also lived; the jeep could easily be started even without the use of an ignition key; the said parking area was not fenced or secured to prevent the unauthorized use of the vehicle which can be started even without the ignition key.

The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the instant appeal is GRANTED. The assailed Order dated 21 June 2000 of the Regional Trial Court (Branch 23), Molave, Zamboanga del Sur, in Civil Case No. 96-20,219 is SET ASIDE and a new one is hereby entered. OSCAR DEL CARMEN, Jr. and ALLAN MAGLASANG are held primarily liable, jointly and severally, to pay plaintiffs-appellants:

1. Civil indemnity for the death of Emilia Bacoy Monsalud, Leonardo Monsalud Sr., and Glenda Monsalud in the amount of Fifty thousand pesos (P50,000.00) each or for the total amount of One hundred fifty thousand pesos (P150,000.00);
2. Temperate damages in the amount of Twenty-five Thousand Pesos (P25,000.00) each for the death of Emilia Monsalud, Leonardo Monsalud Sr., and Glenda Monsalud (collectively the Monsaluds) or for the total amount of Seventy-five thousand pesos (P75,000.00);
3. Moral damages in the amount of Fifty Thousand Pesos (P50,000.00) each for the death of the Monsaluds or for a total amount of One Hundred Fifty Thousand Pesos (P150,000.00);
4. Exemplary damages of Forty Thousand Pesos (P40,000.00).

No pronouncement as to costs.

SO ORDERED. ^[32]

Issues

As a result of the adverse judgment, Oscar Jr. filed this Petition for Review on Certiorari alleging that the CA erred in:

- x x x basing its conclusions and findings on speculations, surmises and conjectures; misapprehension of facts which are in conflict with the findings of the trial court;

- x x x declaring a question of substance not in accord with law and with the applicable decisions of the Supreme Court;
- x x x departing from the regular course of the judicial proceedings in the disposition of the appeal and [in going] beyond the issues of the case.[33]

Oscar Jr. points out that the CA failed to consider the RTC's ruling in its June 21, 2000 Order which was in accord with Article 2180 of the Civil Code, i.e., that the tort committed by an employee should have been done 'within the scope of his assigned tasks' for an employer to be held liable under culpa aquiliana. However, the CA never touched upon this matter even if it was glaring that Allan's driving the subject vehicle was not within the scope of his previous employment as conductor. Moreover, Oscar Jr. insists that his jeep was stolen and stresses that the liability of a registered owner of a vehicle as to third persons, as well as the doctrine of *res ipsa loquitur*, should not apply to him. He asserts that although Allan and his companions were not found to have committed the crime of carnapping beyond reasonable doubt, it was nevertheless established that the jeep was illicitly taken by them from a well secured area. This is considering that the vehicle was running without its headlights on at the time of the accident, a proof that it was started without the ignition key.

Our Ruling

Petitioner's own evidence casts doubt on his claim that his jeep was stolen by Allan and his alleged cohorts. Negligence is presumed under the doctrine of *res ipsa loquitur*.

Oscar Jr.'s core defense to release him from responsibility for the death of the Monsaluds is that his jeep was stolen. He highlights that the unauthorized taking of the jeep from the parking area was indeed carried out by the clandestine and concerted efforts of Allan and his five companions, notwithstanding the obstacles surrounding the parking area and the weight of the jeep.

Notably, the carnapping case filed against Allan and his group was already dismissed by the RTC for insufficiency of evidence. But even in this civil case and as correctly concluded by the CA, the evidentiary standard of preponderance of evidence required was likewise not met to support Oscar Jr.'s claim that his jeep was unlawfully taken.

Two of Allan's co-accused in the carnapping case, Jemar and Benjamin, declared before the police that when Allan invited them to ride with him, he was already driving the jeep:

04.

Q-

On that night, on or about 11:30 o'clock on December 31, 1992, where were you?

A-

I went to the disco near [the] Public Market[,] Sominot, Zamboanga del Sur.

05.

Q-

While you were in disco place, do you know if there was an incident [that] happened?

A-

No sir but when I was in the disco place, at about 3:30 at dawn more or less[,] January 1, 1993, Allan Maglasang arrived driving the jeep and he invited me to ride together with Benjamin Andujar, Dioscoro Sol, Arniel Rezada and Joven Orot.[34]

x x x x

04.

Q-

On that night, on or about 9:00 o'clock in the evening more or less on December 31, 1992, where were you?

A-

I went to the disco at [the] Public Market[,] Sominot, Zamboanga del Sur.

05.

Q-

While you were in the disco place, do you know if there was an incident [that] happened?

A-

No, sir, but when I was in the disco place, at about 3:30 at dawn more or less[,] January 1, 1993, Allan Maglasang arrive[d] driving the jeep and he invited me to ride together with Jemar Alarcon, Dioscoro Sol, Arniel Rizada and Joven Orot.[35]

There were six accused in the carnapping case. If Jemar and Benjamin were fetched by Allan who was driving the jeep, this would mean that only three men pushed the jeep contrary to Rodrigo's testimony in Criminal Case No. 93-10380 that it has to be pushed by at least five people so that it could start without the ignition key.

On direct examination,[36] Oscar Jr. was asked as to what Rodrigo, his driver who had informed him about the accident on January 1, 1993 at around 7:00 a.m., turned over to him after the incident, viz:

Q:

When Rodrigo Maglasang, your driver informed you about the accident, what did he carry with him if any and turned over to you?

A:

The OR (Official Receipt) and the CR (Certificate of Registration) Sir.

Q:

How about the key of the vehicle?

A:

It was not turned over, Sir.[37]

Assuming arguendo that Allan stole the jeep by having the same pushed by a group, the ignition key should then be with Rodrigo as he was entrusted with the jeep's possession. Thus, at the time Rodrigo faced his employer hours after the incident, it is reasonable to expect that the driver should have also returned the key to the operator together with the Official Receipt and Certificate of Registration. Notably, Rodrigo did not do so and instead, the key was allegedly handed over to the police for reasons unexplained and not available from the records. Interestingly, Oscar Jr. never presented Rodrigo as his witness. Neither was he able to attest on cross-examination

that Allan really stole the jeep by pushing or that the key was handed over to him by Rodrigo:

Q:

On December 31, 1992, you did not know that it was Rodrigo Maglasang who gave the key to Allan Maglasang. Is that correct?

A:

I was not there. So, I do not know but he had an affidavit to show that he turned it over to the police.

Q:

What I was asking you is that, [o]n the night of December 31, 1992, when it was driven by Allan Maglasang, you did not know that the key was voluntarily given by Rodrigo Maglasang to Allan Maglasang?

A:

I was not there.

Q:

So, you could not testify on that, is that correct?

A:

Yes Sir, I was not there.[38]

Furthermore, Oscar Jr. acknowledged the dismissal of the carnapping case, thus:

Q:

Now, there was a case filed against Allan Maglasang and [his] x x x co-accused x x x [n]amely: Benjamin Andojar, Dioscoro Sol, Joven Orot, [Jemar Azarcon] and [Arniel] Rizada, for carnapping. Is that correct?

A:

Yes Sir.

Q:

That case was filed by you because you alleged that on December 31, 1992, your jeep was carnapped by Allan Maglasang and his co-accused, the said mentioned, is that correct?

A:

Yes Sir.

Q:

You testified on the case in Aurora, is that correct?

A:

Yes, Sir.

Q:

And you could well remember that this representation is the counsel of the co-accused of Allan Maglasang, is that correct?

A:

Yes Sir.

Q:

And that case for carnapping was dismissed, is that correct?

A:

Yes Sir.

Q:

Even the case of Allan Maglasang, was also dismissed, is that correct

A:

Yes Sir.

Q:

Because there was no sufficient evidence to establish that the jeep was carnapped, is that correct?

A:

Yes Sir.[39]

While Oscar Jr. highlights that the headlights were not on to support his claim that his jeep was stolen, this circumstance by itself will not prove that it really was stolen. The reason why the headlights were not on at the time of the accident was not sufficiently established during the trial. Besides, the fact that the headlights were not on cannot be exclusively attributed to the lack of ignition key in starting the jeep as there may be other possibilities such as electrical problems, broken headlights, or that they were simply turned off.

Hence, sans the testimony of witnesses and other relevant evidence to support the defense of unauthorized taking, we cannot subscribe to Oscar Jr.'s claim that his jeep was stolen. The evidence on record brings forth more questions than clear-cut answers.

Oscar Jr. alleges that the presumption of negligence under the doctrine of *res ipsa loquitur* (literally, the thing speaks for itself) should not have been applied because he was vigilant in securing his vehicle. He claims that the jeep was parked in a well secured area not remote to the watchful senses of its driver Rodrigo.

Under the doctrine of *res ipsa loquitur*, “[w]here the thing that caused the injury complained of is shown to be under the management of the defendant or his servants; and the accident, in the ordinary course of things, would not happen if those who had management or control used proper care, it affords reasonable evidence – in the absence of a sufficient, reasonable and logical explanation by defendant – that the accident arose from or was caused by the defendant’s want of care.”[40] *Res ipsa loquitur* is “merely evidentiary, a mode of proof, or a mere procedural convenience, since it furnishes a substitute for, and relieves a plaintiff of, the burden of producing a specific proof of negligence.”[41] It “recognizes that parties may establish *prima facie* negligence without direct proof, thus, it allows the principle to substitute for specific proof of negligence. It permits the plaintiff to present along with proof of the accident, enough of the attending circumstances to invoke the doctrine, create an inference or presumption of negligence and thereby place on the defendant the burden of proving that there was no negligence on his part.”[42] The doctrine is based partly on “the theory that the defendant in charge of the instrumentality which causes the injury either knows the cause of the accident or has the best opportunity of

ascertaining it while the plaintiff has no such knowledge, and is therefore compelled to allege negligence in general terms.”[43]

The requisites of the doctrine of *res ipsa loquitur* as established by jurisprudence are as follows:

- 1) the accident is of a kind which does not ordinarily occur unless someone is negligent;
- 2) the cause of the injury was under the exclusive control of the person in charge and
- 3) the injury suffered must not have been due to any voluntary action or contribution on the part of the person injured.[44]

The above requisites are all present in this case. First, no person just walking along the road would suddenly be sideswiped and run over by an on-rushing vehicle unless the one in charge of the said vehicle had been negligent. Second, the jeep which caused the injury was under the exclusive control of Oscar Jr. as its owner. When Oscar Jr. entrusted the ignition key to Rodrigo, he had the power to instruct him with regard to the specific restrictions of the jeep’s use, including who or who may not drive it. As he is aware that the jeep may run without the ignition key, he also has the responsibility to park it safely and securely and to instruct his driver Rodrigo to observe the same precaution. Lastly, there was no showing that the death of the victims was due to any voluntary action or contribution on their part.

The aforementioned requisites having been met, there now arises a presumption of negligence against Oscar Jr. which he could have overcome by evidence that he exercised due care and diligence in preventing strangers from using his jeep. Unfortunately, he failed to do so.

What this Court instead finds worthy of credence is the CA’s conclusion that Oscar Jr. gave his implied permission for Allan to use the jeep. This is in view of Oscar Jr.’s failure to provide solid proof that he ensured that the parking area is well secured and that he had expressly imposed restrictions as to the use of the jeep when he entrusted the same to his driver Rodrigo. As fittingly inferred by the CA, the jeep could have been endorsed to Allan by his brother Rodrigo since as already mentioned, Oscar Jr. did not give Rodrigo any specific and strict instructions on matters regarding its use. Rodrigo therefore is deemed to have been given the absolute discretion as to the vehicle’s operation, including the discretion to allow his brother Allan to use it.

The operator on record of a vehicle is primarily responsible to third persons for the deaths or injuries consequent to its operation, regardless of whether the employee drove the registered owner’s vehicle in connection with his employment.

Without disputing the factual finding of the CA that Allan was still his employee at the time of the accident, a finding which we see no reason to disturb, Oscar Jr. contends that Allan drove the jeep in his private capacity and thus, an employer’s vicarious liability for the employee’s fault under Article 2180 of the Civil Code cannot apply to him.

The contention is no longer novel. In *Aguilar Sr. v. Commercial Savings Bank*,[45] the car of therein respondent bank caused the death of Conrado Aguilar, Jr. while being driven by its assistant vice president. Despite Article 2180, we still held the bank liable for damages for the accident as said provision should defer to the settled doctrine concerning accidents involving registered motor vehicles, i.e., that the registered owner of any vehicle, even if not used for public service, would primarily be responsible to the public or to third persons for injuries caused the latter while the vehicle was being driven on the highways or streets.[46] We have already ratiocinated that:

The main aim of motor vehicle registration is to identify the owner so that if any accident happens, or that any damage or injury is caused by the vehicle on the public highways, responsibility therefor can be fixed on a definite individual, the registered owner. Instances are numerous where vehicles running on public highways caused accidents or injuries to pedestrians or other vehicles without positive identification of the owner or drivers, or with very scant means of identification. It is to forestall these circumstances, so inconvenient or prejudicial to the public, that the motor vehicle registration is primarily ordained, in the interest of the determination of persons responsible for damages or injuries caused on public highways.[47]

Absent the circumstance of unauthorized use[48] or that the subject vehicle was stolen[49] which are valid defenses available to a registered owner, Oscar Jr. cannot escape liability for quasi-delict resulting from his jeep's use.

All told and considering that the amounts of damages awarded are in accordance with prevailing jurisprudence, the Court concurs with the findings of the CA and sustains the awards made. In addition, pursuant to *Eastern Shipping Lines, Inc. v. Court of Appeals*,[50] an interest of six percent (6%) per annum on the amounts awarded shall be imposed, computed from the time the judgment of the RTC is rendered on April 17, 2000 and twelve percent (12%) per annum on such amount upon finality of this Decision until the payment thereof.

WHEREFORE, premises considered, the instant petition is DENIED. The Decision dated July 11, 2006 of the Court of Appeals in CA-G.R. CV No. 67764 is hereby AFFIRMED with further MODIFICATION that an interest of six percent (6%) per annum on the amounts awarded shall be imposed, computed from the time the judgment of the Regional Trial Court, Branch 23, Molave, Zamboanga del Sur is rendered on April 17, 2000 and twelve percent (12%) per annum on such amount upon finality of this Decision until the payment thereof.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 13-31.

[2] CA rollo, pp. 142-173; penned by Associate Justice Teresita Dy-Liacco Flores and concurred in by Associate Justices Rodrigo F. Lim, Jr. and Sixto C. Marella, Jr.

[3] Records, p. 145.

[4] As mentioned in the RTC Decision in Civil Case No. 96-20,219 dated April 17, 2000, *id.* at 169-170. The accused was imposed the indeterminate penalty of 1 year of prision correccional to 6 years of prision correccional of imprisonment.

[5] Namely Mary Marjorie, Eric, Metzie Ann, Kareen, Leonardo Jr., and Christian.

[6] See original complaint, records, pp. 1-5. The complaint was later amended to include the plaintiffs' demand for loss of earning capacity, see Amended Complaint, *id.* at 55-60.

[7] *Id.* at 59. Geronimo prayed for the following:

- a) Reimbursement of expenses prior to burial at P73,112.00;
- b) Attorney's fees of P20,000.00 plus P1,000.00 per hearing;
- c) Moral damages of P1,000,000.00 for the death of Emilia and for the death of Leonardo and Glenda, P250,000.00 each;
- d) Exemplary damages of P40,000.00;
- e) Actual and compensatory damages of P3,016,000.00.

- [8] See the Spouses del Carmen's Answer, *id.* at 12-13; TSN-Oscar del Carmen, Sr., July 5, 1999, pp. 4, 6.
- [9] Namely Benjamin Andujar, Dioscoro Sol, Joven Orot, Jemar Alarcon, and Arniel Rizada.
- [10] TSN-Oscar del Carmen, Jr., July 5, 1999, pp. 18-19; TSN-Cecilio Cabahug, January 11, 2000, pp. 4-5. The motor involved is Fuso Motor No. 41066, *id.* at 3.
- [11] Records, pp. 149-150.
- [12] *Id.* at 15; TSN-Oscar del Carmen Jr., July 5, 1999, pp. 16-17. Benjamin Andojar, Dioscoro Sol, Joven Orot, Jumar Alarcon, and Arnel Rizada were the named co-accused.
- [13] As mentioned in the RTC Decision in Civil Case No. 96-20,219 dated April 17, 2000, *id.* at 171.
- [14] TSN-Oscar del Carmen, Jr., July 5, 1999, pp. 9-10.
- [15] *Id.* at 9-10, 13, 15.
- [16] TSN-Faustino Sismundo, December 2, 1998, pp. 4-6, 8.
- [17] TSN-Cresencio Baobao, May 11, 1999, pp. 3-4.
- [18] *Id.* at 5-6, 10, 13-15.
- [19] TSN-Oscar del Carmen Jr., July 5, 1999, p. 12.
- [20] TSN-Saturnino Jumawan, October 6, 1998, p. 8.
- [21] TSN-Jose Navarro, February 28, 2000, pp. 2-3, 5-6.
- [22] *Id.* at 169-176; penned by Judge Camilo E. Tamin.
- [23] *Id.* at 175-176.
- [24] *Id.* at 177-186.
- [25] Art. 2180. The obligation imposed by Art. 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

x x x x

Employers shall be liable for the damage caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

x x x x

- [26] Records, p. 182, citing the TSN of Rodrigo Maglasang dated October 22, 1996 in Criminal Case No. 93-10380.
- [27] *Id.* at 198-200.
- [28] *Id.* at 200.
- [29] *Supra* note 2.
- [30] TSN- Faustino Sismundo, December 2, 1998, p.5.
- [31] TSN-Cresencio Baobao, May 11, 1999, p. 7.

- [32] CA rollo, pp. 172-173.
- [33] Rollo, p. 22.
- [34] Sworn Statement of Jemar Alarcon, records, p. 149.
- [35] Sworn Statement of Benjamin Andujar, id. at 150.
- [36] TSN-Oscar del Carmen, Jr., July 5, 1999, pp. 11-12.
- [37] Id. at 12.
- [38] Id. at 15-16.
- [39] Id. at 16-17.
- [40] Tan v. Jam Transit, Inc., G.R. No. 183198, November 25, 2009, 605 SCRA 659, 667-668.
- [41] Id. at 668.
- [42] Macalinao v. Ong, 514 Phil. 127, 139 (2005).
- [43] Id. at 140.
- [44] Perla Compania de Seguros, Inc. v. Spouses Sarangaya III, 510 Phil. 676, 687 (2005), citing Reyes v. Sisters of Mercy Hospital, 396 Phil. 87, 98 (2000).
- [45] 412 Phil. 834 (2001).
- [46] See also St. Mary's Academy v. Carpitanos, 426 Phil. 878, 887 (2002) citing Aguilar Sr. v. Commercial Savings Bank, 412 Phil. 834, 841 (2001) and Erez v. Jepte, 102 Phil. 103, 107 (1957).
- [47] Erez v. Jepte, 102 Phil 103, 108 (1957).
- [48] Duquillo v. Bayot, 67 Phil. 131 (1939).
- [49] Duavit v. Court of Appeals, 255 Phil. 470 (1989).
- [50] G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95-97.

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