# LAMBERT S. RAMOS, PETITIONER, VS. C.O.L. REALTY CORPORATION, RESPONDENT.

*G.R. No. 184905. August 28, 2009*

Ponente: YNARES-SANTIAGO, J.

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**YNARES-SANTIAGO, J.:**

The issue for resolution is whether petitioner can be held solidarily liable with his driver, Rodel Ilustrisimo, to pay respondent C.O.L. Realty the amount of P51,994.80 as actual damages suffered in a vehicular collision.

The facts, as found by the appellate court, are as follows:

> On or about 10:40 o'clock in the morning of 8 March 2004, along Katipunan (Avenue), corner Rajah Matanda (Street), Quezon City, a vehicular accident took place between a Toyota Altis Sedan bearing Plate Number XDN 210, owned by petitioner C.O.L. Realty Corporation, and driven by Aquilino Larin ("Aquilino"), and a Ford Expedition, owned by x x x Lambert Ramos (Ramos) and driven by Rodel Ilustrisimo ("Rodel"), with Plate Number LSR 917. A passenger of the sedan, one Estela Maliwat ("Estela") sustained injuries. She was immediately rushed to the hospital for treatment.
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> (C.O.L. Realty) averred that its driver, Aquilino, was slowly driving the Toyota Altis car at a speed of five to ten kilometers per hour along Rajah Matanda Street and has just crossed the center lane of Katipunan Avenue when (Ramos') Ford Espedition violently rammed against the car's right rear door and fender. With the force of the impact, the sedan turned 180 degrees towards the direction where it came from.
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> Upon investigation, the Office of the City Prosecutor of Quezon City found probable cause to indict Rodel, the driver of the Ford Expedition, for Reckless Imprudence Resulting in Damage to Property. In the meantime, petitioner demanded from respondent reimbursement for the expenses incurred in the repair of its car and the hospitalization of Estela in the aggregate amount of P103,989.60. The demand fell on deaf ears prompting (C.O.L. Realty) to file a Complaint for Damages based on quasi-delict before the Metropolitan Trial Court of Metro Manila (MeTC), Quezon City, docketed as Civil Case No. 33277, and subsequently raffled to Branch 42.
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> As could well be expected, (Ramos) denied liability for damages insisting that it was the negligence of Aquilino, (C.O.L. Realty's) driver, which was the proximate cause of the accident. (Ramos) maintained that the sedan car crossed Katipunan Avenue from Rajah Matanda Street despite the concrete barriers placed thereon prohibiting vehicles to pass through the intersection.
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> (Ramos) further claimed that he was not in the vehicle when the mishap occurred. He asserted that he exercised the diligence of a good father of a family in the selection and supervision of his driver, Rodel.
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> Weighing the respective evidence of the parties, the MeTC rendered the Decision dated 1 March 2006 exculpating (Ramos) from liability, thus:
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> "WHEREFORE, the instant case is DISMISSED for lack of merit. The Counterclaims of the defendant are likewise DISMISSED for lack of sufficient factual and legal basis.

SO ORDERED."

The aforesaid judgment did not sit well with (C.O.L. Realty) so that he (sic) appealed the same before the RTC of Quezon City, raffled to Branch 215, which rendered the assailed Decision dated 5 September 2006, affirming the MeTC's Decision. (C.O.L. Realty's) Motion for Reconsideration met the same fate as it was denied by the RTC in its Order dated 5 June 2007.[1]

C.O.L. Realty appealed to the Court of Appeals which affirmed the view that Aquilino was negligent in crossing Katipunan Avenue from Rajah Matanda Street since, as per Certification of the Metropolitan Manila Development Authority (MMDA) dated November 30, 2004, such act is specifically prohibited. Thus:

> This is to certify that as per records found and available in this office the crossing of vehicles at Katipunan Avenue from Rajah Matanda Street to Blue Ridge Subdivision, Quezon City has (sic) not allowed since January 2004 up to the present in view of the ongoing road construction at the area.[2] (Emphasis supplied)

Barricades were precisely placed along the intersection of Katipunan Avenue and Rajah Matanda Street in order to prevent motorists from crossing Katipunan Avenue. Nonetheless, Aquilino crossed Katipunan Avenue through certain portions of the barricade which were broken, thus violating the MMDA rule.[3]

However, the Court of Appeals likewise noted that at the time of the collision, Ramos' vehicle was moving at high speed in a busy area that was then the subject of an ongoing construction (the Katipunan Avenue-Boni Serrano Avenue underpass), then smashed into the rear door and fender of the passenger's side of Aquilino's car, sending it spinning in a 180-degree turn.[4] It therefore found the driver Rodel guilty of contributory negligence for driving the Ford Expedition at high speed along a busy intersection.

Thus, on May 28, 2008, the appellate court rendered the assailed Decision,[5] the dispositive portion of which reads, as follows:

> WHEREFORE, the Decision dated 5 September 2006 of the Regional Trial Court of Quezon City, Branch 215 is hereby MODIFIED in that respondent Lambert Ramos is held solidarily liable with Rodel Ilustrisimo to pay petitioner C.O.L. Realty Corporation the amount of P51,994.80 as actual damages. Petitioner C.O.L. Realty Corporation's claim for exemplary damages, attorney's fees and cost of suit are DISMISSED for lack of merit.
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> SO ORDERED.

Petitioner filed a Motion for Reconsideration but it was denied. Hence, the instant petition, which raises the following sole issue:

> THE COURT OF APPEALS' DECISION IS CONTRARY TO LAW AND JURISPRUDENCE, AND THE EVIDENCE TO SUPPORT AND JUSTIFY THE SAME IS INSUFFICIENT.

We resolve to GRANT the petition.

There is no doubt in the appellate court's mind that Aquilino's violation of the MMDA prohibition against crossing Katipunan Avenue from Rajah Matanda Street was the proximate cause of the accident. Respondent does not dispute this; in its Comment to the instant petition, it even conceded that petitioner was guilty of mere contributory negligence.[6]

Thus, the Court of Appeals acknowledged that:

> The Certification dated 30 November 2004 of the Metropolitan Manila Development Authority (MMDA) evidently disproved (C.O.L. Realty's) barefaced assertion that its driver, Aquilino, was not to be blamed for the accident -


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> "TO WHOM IT MAY CONCERN:
>
> This is to certify that as per records found and available in this office the crossing of vehicles at Katipunan Avenue from Rajah Matanda Street to Blue Ridge Subdivision, Quezon City has (sic) not allowed since January 2004 up to the present in view of the ongoing road construction at the area.
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> This certification is issued upon request of the interested parties for whatever legal purpose it may serve."

(C.O.L. Realty) admitted that there were barricades along the intersection of Katipunan Avenue and Rajah Matanda Street. The barricades were placed thereon to caution drivers not to pass through the intersecting roads. This prohibition stands even if, as (C.O.L. Realty) claimed, the "barriers were broken" at that point creating a small gap through which any vehicle could pass. What is clear to Us is that Aquilino recklessly ignored these barricades and drove through it. Without doubt, his negligence is established by the fact that he violated a traffic regulation. This finds support in Article 2185 of the Civil Code -

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

Accordingly, there ought to be no question on (C.O.L. Realty's) negligence which resulted in the vehicular mishap.[7]

However, it also declared Ramos liable vicariously for Rodel's contributory negligence in driving the Ford Expedition at high speed along a busy intersection. On this score, the appellate court made the following pronouncement:

> As a professional driver, Rodel should have known that driving his vehicle at a high speed in a major thoroughfare which was then subject of an on-going construction was a perilous act. He had no regard to (sic) the safety of other vehicles on the road. Because of the impact of the collision, (Aquilino's) sedan made a 180-degree turn as (Ramos') Ford Expedition careened and smashed into its rear door and fender. We cannot exculpate Rodel from liability.
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> Having thus settled the contributory negligence of Rodel, this created a presumption of negligence on the part of his employer, (Ramos). For the employer to avoid the solidary liability for a tort committed by his employee, an employer must rebut the presumption by presenting adequate and convincing proof that in the selection and supervision of his employee, he or she exercises the care and diligence of a good father of a family. Employers must submit concrete proof, including documentary evidence, that they complied with everything that was incumbent on them.
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> (Ramos) feebly attempts to escape vicarious liability by averring that Rodel was highly recommended when he applied for the position of family driver by the Social Service Committee of his parish. A certain Ramon Gomez, a member of the church's livelihood program, testified that a background investigation would have to be made before an applicant is recommended to the parishioners for employment. (Ramos) supposedly tested Rodel's driving skills before accepting him for the job. Rodel has been his driver since 2001, and except for the mishap in 2004, he has not been involved in any road accident.
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> Regrettably, (Ramos') evidence which consisted mainly of testimonial evidence remained unsubstantiated and are thus, barren of significant weight. There is nothing on the records which would support (Ramos') bare allegation of Rodel's 10-year unblemished driving record. He failed to present convincing proof that he went to the extent of verifying Rodel's qualifications, safety record, and driving history.
>
> So too, (Ramos) did not bother to refute (C.O.L. Realty's) stance that his driver was texting with his cellphone while running at a high speed and that the latter did not slow down albeit he knew that Katipunan Avenue was then undergoing repairs and that the road was barricaded with barriers. The presumption juris tantum that there


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> was negligence in the selection of driver remains unrebutted. As the employer of Rodel, (Ramos) is solidarily liable for the quasi-delict committed by the former.
>
> Certainly, in the selection of prospective employees, employers are required to examine them as to their qualifications, experience and service records. In the supervision of employees, the employer must formulate standard operating procedures, monitor their implementation and impose disciplinary measures for the breach thereof. These, (Ramos) failed to do.[8]

Petitioner disagrees, arguing that since Aquilino's willful disregard of the MMDA prohibition was the sole proximate cause of the accident, then respondent alone should suffer the consequences of the accident and the damages it incurred. He argues:

> 20. It becomes apparent therefore that the only time a plaintiff, the respondent herein, can recover damages is if its negligence was only contributory, and such contributory negligence was the proximate cause of the accident. It has been clearly established in this case, however, that respondent's negligence was not merely contributory, but the sole proximate cause of the accident.
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> x x x x
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> 22. As culled from the foregoing, respondent was the sole proximate cause of the accident. Respondent's vehicle should not have been in that position since crossing the said intersection was prohibited. Were it not for the obvious negligence of respondent's driver in crossing the intersection that was prohibited, the accident would not have happened. The crossing of respondent's vehicle in a prohibited intersection unquestionably produced the injury, and without which the accident would not have occurred. On the other hand, petitioner's driver had the right to be where he was at the time of the mishap. As correctly concluded by the RTC, the petitioner's driver could not be expected to slacken his speed while travelling along said intersection since nobody, in his right mind, would do the same. Assuming, however, that petitioner's driver was indeed guilty of any contributory negligence, such was not the proximate cause of the accident considering that again, if respondent's driver did not cross the prohibited intersection, no accident would have happened. No imputation of any lack of care on Ilustrisimo's could thus be concluded. It is obvious then that petitioner's driver was not guilty of any negligence that would make petitioner vicariously liable for damages.
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> 23. As the sole proximate cause of the accident was respondent's own driver, respondent cannot claim damages from petitioner.[9]

On the other hand, respondent in its Comment merely reiterated the appellate court's findings and pronouncements, conceding that petitioner is guilty of mere contributory negligence, and insisted on his vicarious liability as Rodel's employer under Article 2184 of the Civil Code.

Articles 2179 and 2185 of the Civil Code on quasi-delicts apply in this case, viz:

> Article 2179. When the plaintiff's own negligence was the immediate and proximate cause of his injury, he cannot recover damages. But if his negligence was only contributory, the immediate and proximate cause of the injury being the defendant's lack of due care, the plaintiff may recover damages, but the courts shall mitigate the damages to be awarded.
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> Article 2185. Unless there is proof to the contrary, it is presumed that a person driving a motor vehicle has been negligent if at the time of the mishap, he was violating any traffic regulation.

If the master is injured by the negligence of a third person and by the concurring contributory negligence of his own servant or agent, the latter's negligence is imputed to his superior and will defeat the superior's action against the third person, assuming of course that the contributory negligence was the proximate cause of the injury of which complaint is made.[10]

Applying the foregoing principles of law to the instant case, Aquilino's act of crossing Katipunan Avenue via Rajah Matanda constitutes negligence because it was prohibited by law. Moreover, it was the proximate cause of the accident, and thus precludes any recovery for any damages suffered by respondent from the accident.

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. And more comprehensively, the proximate legal cause is that 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 a natural and probable result of the cause which first acted, under such circumstances that the person responsible for the first event should, as an ordinary 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.[11]

If Aquilino heeded the MMDA prohibition against crossing Katipunan Avenue from Rajah Matanda, the accident would not have happened. This specific untoward event is exactly what the MMDA prohibition was intended for. Thus, a prudent and intelligent person who resides within the vicinity where the accident occurred, Aquilino had reasonable ground to expect that the accident would be a natural and probable result if he crossed Katipunan Avenue since such crossing is considered dangerous on account of the busy nature of the thoroughfare and the ongoing construction of the Katipunan-Boni Avenue underpass. It was manifest error for the Court of Appeals to have overlooked the principle embodied in Article 2179 of the Civil Code, that when the plaintiff's own negligence was the immediate and proximate cause of his injury, he cannot recover damages.

Hence, we find it unnecessary to delve into the issue of Rodel's contributory negligence, since it cannot overcome or defeat Aquilino's recklessness which is the immediate and proximate cause of the accident. Rodel's contributory negligence has relevance only in the event that Ramos seeks to recover from respondent whatever damages or injuries he may have suffered as a result; it will have the effect of mitigating the award of damages in his favor. In other words, an assertion of contributory negligence in this case would benefit only the petitioner; it could not eliminate respondent's liability for Aquilino's negligence which is the proximate result of the accident.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals dated May 28, 2008 in CA-G.R. SP No. 99614 and its Resolution of October 13, 2008 are hereby REVERSED and SET ASIDE. The Decision of the Regional Trial Court of Quezon City, Branch 215 dated September 5, 2006 dismissing for lack of merit respondent's complaint for damages is hereby REINSTATED.

**SO ORDERED.**

Chico-Nazario, Velasco, Jr., Nachura, and Peralta, JJ., concur.

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[1] Rollo, pp. 31-32.

[2] Id. at 34.

[3] Id.

[4] Id. at 35.

[5] Id. at 30-37; penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Mario L. Guariña III and Romeo F. Barza.

[6] Id. at 161.


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[7] Id. at 34-35.

[8] Id. at 35-36.

[9] Id. at 12-13.

[10] Am. Jur. 2d, Volume 58, Negligence, Section 464; cited in Ford Philippines, Inc. v. Citibank, N.A., G.R. No. 128604, January 29, 2001, 350 SCRA 446.

[11] McKee v. Intermediate Appellate Court, G.R. No. 68102, July 16, 1992, 211 SCRA 517.

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