

**PURIFICACION SAMALA AND LEONARDO ESGUERRA, PETITIONERS,
VS. HON. LUIS L. VICTOR, CFI OF CAVITE, BR. II, EMERITA C.
JUMANAN AND RICARDO JUMANAN, RESPONDENTS.**

G.R. No. 53969, February 21, 1989

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

This is a petition for review on certiorari seeking the reversal of the decision of the Court of First Instance of Cavite, Branch II, Cavite City, in Civil Case No. N-2411 entitled: "Emerita C. Jumanan, et al., plaintiffs, v. Felisa R. Garcia, et al, defendants; Felisa R. Garcia, et al., third-party plaintiffs, v. Purification Samala, et al., third party defendants; Purification Samala, fourth-party plaintiff, v. The Imperial Insurance, Inc., fourth-party defendant", absolving the defendants from any liability and ordering the third party defendants and fourth party plaintiffs, Purificacion Samala and Leonardo Esguerra (petitioners herein) and the fourth party defendant Imperial Insurance, Inc., jointly and severally to pay to plaintiffs (respondents herein) the damages mentioned in the decision.[1]

The factual background of this case as found by the trial court is as follows:

"At approximately 6:30 o'clock in the morning of February 7, 1976, plaintiff Emerita C. Jumanan was riding a passenger jeepney on her way from her residence at Binakayan, Kawit, Cavite to her place of work at the Department (now Ministry) of Public Information in Intramuros, Manila, where she was employed. The said passenger jeepney, which is owned by defendants Felisa and Tomas Garcia, was the being driven by defendant Virgilio Profeta and was bound for Manila carrying about twelve passengers.

"While the aforesaid passenger jeepney where Emerita C. Jumanan was riding was about to make a left turn on the road just below the bridge at Barrio Mabolo, Bacoor, Cavite, a delivery panel of the Luau restaurant bearing plato no. UH-413 '73, driven by Domingo Medina was approaching them the opposite direction from Manila, followed by the Saint Raphael Transit passenger bus, owned by third party defendant Purificacion Samala and being driven by third party defendant Leonardo Esguerra. The Saint Raphael Transit passenger bus was running fast and after overtaking a vehicle the Saint Raphael Transit bumped the back portion of the delivery panel so violently and strongly causing the delivery panel to swerve abruptly to the path of the oncoming passenger jeepney in which plaintiff Emerita C. Jumanan was on board. So forceful was the impact of the collision between the delivery panel and the passenger jeepney that several passengers of the jeepney were injured, including plaintiff Emerita C. Jumanan.

"Taken to the National Orthopedic Hospital, after an emergency treatment at the Katigbak clinic at Binakayan, Kawit, Cavite, Emerita C. Jumanan was examined and found to be suffering from 'tenderness and swelling of the right thigh, tenderness over the left hip, tenderness over the nape and back of the neck of the right shoulder; limitation of left extremity, light limitation of motion of right extremity; contusion left hip and right thigh and fracture of left inferior ramus of ischium' (Exhibits D and D-1). Admitted and treated at the National Orthopedic Hospital on February 7, 1976, Emerita C. Jumanan was discharged on a wheel chair on February 20, 1976 and advised to have complete bed rest for thirty days."[2]

Emerita C. Jumanan, assisted by her husband Ricardo Jumanan, filed before the CFI of Cavite a complaint for damages arising physical injuries suffered by her as a passenger of the jeepney bearing plate no. PUJ-VY-542 '75 allegedly owned and operated by the four-named defendant, spouses Felisa and Tomas Garcia, Emetiquio M. Jarin and Juanita Madlangbayan, and driven by the last named defendant, Virgilio Profeta.

In their separate answers, both Jarin and Madlangbayan denied liability, claiming they no longer owned the passenger jeepney at the time of the incident in question, said ownership having been transferred to the spouses Garcia. While admitting to be the owners of the passenger jeepney, the spouses Garcia nonetheless denied liability, alleging that the vehicular collision complained of was attributable to the fault and negligence of the owner and driver of the Saint Raphael Transit passenger bus with plate no. XGY-297 PUB-Phil. '75. Consequently, a third-party complaint was filed by defendants spouses Garcia and Virgilio Profeta against Purification Samala and Loenardo Esguerra, owner and driver, respectively, of the Saint Raphael Transit bus. The latter defendants, in turn, filed a fourth-party complaint against the insurer of the Saint Raphael Transit Bus, Imperial Insurance, Inc., which was declared in default for failure to appear at the pre-trial conference.

After trial, respondent Judge rendered a decision in favor of the defendants, the dispositive portion of which reads:

"PREMISES CONSIDERED, judgment is hereby rendered -

1. Absolving defendants, Felisa and Tomas Garcia, Virgilio Profeta, Juanito Madlangbayan and Emetiquio Jarin from any liability;
2. Ordering the third party defendants and fourth party plaintiffs, Purification Samala and Leonardo Esguerra, and the fourth party defendant Imperial Insurance, Inc., jointly and severally, to pay to plaintiffs Emerita C. Jumanan and Ricardo Jumanan the following:
 - (a) Actual or compensatory damages in the amount of P7,958.83;
 - (b) Moral damages in the amount of P5,000.00;
 - (c) Exemplary damages in the amount of P3,000.00; and
 - (d) Attorney's fees and expenses of litigation in the amount of P2,000.00.

Plus costs of this suit.

SO ORDERED." [3]

Third party defendants Purificacion Samala and Leonardo Esguerra moved to reconsider said decision, but to no avail. Hence, this appeal by certiorari, therein third party defendants (petitioners herein) contending that:

1. The lower court erred in holding that the third-party defendants and fourth party plaintiff and the fourth party defendant are jointly and severally liable to pay the claim of plaintiffs.
2. The third-party defendants and fourth-party plaintiff should be absolved from any liability since the principal defendants have been absolved from the claim of plaintiffs, a matter not appreciated by the lower court;
3. The Lower Court erred in not holding that since plaintiffs' cause of action is based on culpa contractual against the defendants only, they cannot recover from the third-party defendants and fourth-party plaintiffs on a cause of action based on tort or quasi-delict. [4]

At issue in this case is the nature and office of a third-party complaint.

Appellants argue that since plaintiffs filed a complaint for damages against the defendants on a breach of contract

of carriage, they cannot recover from the third-party defendants on a cause of action based on quasi-delict. The third party defendants, they allege, are never parties liable with respect to plaintiff's claim although they are with respect to the defendants for indemnification, subrogation, contribution or other reliefs. Consequently, they are not directly liable to the plaintiffs. Their liability commences only when the defendants are adjudged liable and not when they are absolved from liability as in the case at bar.[5]

Quite apparent from these arguments is the misconception entertained by appellants with respect to the nature and office of a third party complaint.

Section 16, Rule 6 of the Revised Rules of Court defines a third party complaint as a "claim that a defending party may, with leave of court, file against a person not a party to the action, called the third-party defendant, for contribution, indemnification, subrogation, or any other relief, in respect of his opponent's claim." In the case of *Viluan vs. Court of Appeals, et al.*, 16 SCRA 742 [1966], this Court had occasion to elucidate on the subjects covered by this Rule, thus:

"x x x As explained in the *Atlantic Coast Line R. Co. vs. U.S. Fidelity & Guaranty Co.*, 52 F. Supp. 177 (1943:)

'From the sources of Rule 14[6] and the decisions herein cited, it is clear that this rule, like the admiralty rule, covers two distinct subjects, the addition of parties defendant to the main cause of action, and the bringing in of a third party for a defendant's remedy over'. x x x

'If the third party complaint alleges facts showing a third party's direct liability to plaintiff on the claim set out in plaintiff's petition, then third party 'shall' make his defenses as provided in Rule 12 and his counterclaims against plaintiff as provided in Rule 13. In the case of alleged direct liability, no amendment (to the complaint) is necessary or required. The subject-matter of the claim is contained in plaintiff's complaint, the ground of third party's liability on that claim is alleged in third party complaint, and third party's defense to set up in his answer to plaintiff's complaint. At that point and without amendment, the plaintiff and third party are at issue as to their rights respecting the claim.

'The provision in the rule that, 'The third-party defendant may assert any defenses which the third-party plaintiff may assert to the plaintiff's claim,' applies to the other subject, namely, the alleged liability of third party defendant. The next sentence in the rule, 'The third-party defendant is bound by the adjudication of the third party plaintiff's liability to the plaintiff, as well as of his own to the plaintiff or to the third-party plaintiff,' applies to both subjects. If third party is brought in as liable only to defendant and judgment is rendered adjudicating plaintiff's right to recover against defendant and defendant's rights to recover against third party, he is bound by both adjudications. That part of the sentence refers to the second subject. If third party is brought in as liable plaintiff, then third party is bound by the adjudication as between him and plaintiff. That refers to the first subject. If third party is brought in as liable to plaintiff and also over to defendant, then third party bound by both adjudications. x x x''.

Under this Rule, a person not a party to an action may be impleaded by the defendant either (a) on an allegation of liability to the latter; (b) on the ground of direct liability to the plaintiff; or (c) both (a) and (b). The situation in (a) is covered by the phrase "for contribution, indemnity or subrogation;" while (b) and (c) are subsumed under the catch-all "or any other relief, in respect of his opponent's claim."

The case at bar is one in which the third party defendants are brought into the action as directly liable to the plaintiffs upon the allegation that "the primary and immediate cause as shown by the police investigation of said vehicular collision between (sic) the above-mentioned three vehicles was the recklessness and negligence and lack of imprudence (sic) of the third-party defendant Virgilio (should be Leonardo) Esguerra y Ledesma then driver of the passenger bus".[7] The effects are that "plaintiff and third party are at issue as to their rights respecting the

claim" and "the third party is bound by the adjudication as between him and plaintiff." It is not indispensable in the premises that the defendant be first adjudged liable to plaintiff before the third-party defendant may be held liable to the plaintiff, as precisely, the theory of defendant is that it is the third party defendant, and not he, who is directly liable to plaintiff. The situation contemplated by appellants would properly pertain to situation (a) above wherein the third party defendant is being sued for contribution, indemnity or subrogation, or simply stated, for a defendant's "remedy over".

Anent appellants' claim that plaintiff who sued on contractual breach cannot recover on the basis of quasi-delict, suffice it to say that as the primary purpose of this rule is to avoid circuity of action and to dispose of in one litigation, the entire subject matter arising from a particular set of facts[8] it is immaterial that the third-party plaintiff asserts a cause of action against the third party defendant on a theory different from that asserted by the plaintiff against the defendant.[9] It has likewise been held that "a defendant in a contract action may join as third-party defendants those liable to him in tort for the plaintiff's claim against him or directly to the plaintiff." [10]

The incident complained of having been found to have been caused by the negligence of appellant Leonardo Esguerra, driver and employee of co-appellant Purification Samala, no reversible error was committed by the trial court in adjudging the latter liable to plaintiffs-appellees.

WHEREFORE, the instant appeal by certiorari is hereby DISMISSED with costs against appellants. This decision is immediately executory.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Rollo, pp. 3 - 4

[2] Rollo, pp. 11-13

[3] Rollo, pp. 16-17

[4] Rollo, p. 7

[5] Rollo, p. 8

[6] Rule 14 of the Federal Rules of Civil Procedure governs the procedure of third party complaint. It was adopted in the Philippines' Rules of Court of 1940 under Section 1 of Rule 12 thereof together with Article 13, Section 1 of the Rules of Civil Procedure by the American Judicature Society. Section 12, Rule 6 of the present Rules is a concise statement of Section I of Rule 12 of the old Rule of Court (See Annotations on Third Party Complaint, 25 SCRA 651).

[7] Rollo, p. 35

[8] *Tulgreen v. Jasper*, 27 F. Supp. 413, cited in *I Martin*, Rules of Court of the Philippines, p. 325

[9] *Jeub. v. Ct. D. D. Minn.*, Jan. 8, 1945; 2 F.R.D. 238, cited in *Ibid.*, p. 328

[10] *Fruit Growers Cooperative v. California Pie and Baking Co., Inc.*, 2 F.D.R. 415, cited in *I. Francisco*, The Revised Rules of Court in the Philippines, p. 352 under footnote 59

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