

CRESENCIO LIBI AND AMELIA YAP LIBI, PETITIONERS, VS. HON. INTERMEDIATE APPELLATE COURT, FELIPE GOTIONG AND SHIRLEY GOTIONG, RESPONDENTS.

G.R. No. 70890. September 18, 1992

Ponente: REGALADO, J.

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REGALADO, J.:

One of the ironic verities of life, it has been said, is that sorrow is sometimes a touchstone of love. A tragic illustration is provided by the instant case, wherein two lovers died while still in the prime of their years, a bitter episode for those whose lives they have touched. While we cannot expect to award complete assuagement to their families through seemingly prosaic legal verbiage, this disposition should at least terminate the acrimony and rancor of an extended judicial contest resulting from the unfortunate occurrence.

In this final denouement of the judicial recourse the stages whereof were alternately initiated by the parties, petitioners are now before us seeking the reversal of the judgment of respondent court promulgated on January 2, 1985 in AC-G.R. CV No. 69060 with the following decretal portion:

"WHEREFORE, the decision of the lower court dismissing plaintiff's complaint is hereby reversed; and instead, judgment is hereby rendered sentencing defendants, jointly and solidarily, to pay to plaintiffs the following amounts:

1. Moral damages, P30,000.00;
2. Exemplary damages, P10,000.00;
3. Attorney's fees, P20,000.00, and costs.

However, denial of defendants-appellees' counterclaims is affirmed."[1]

Synthesized from the findings of the lower courts, it appears that respondent spouses are the legitimate parents of Julie Ann Gotiong who, at the time of the deplorable incident which took place and from which she died on January 14, 1979, was an 18-year old first year commerce student of the University of San Carlos, Cebu City; while petitioners are the parents of Wendell Libi, then a minor between 18 and 19 years of age living with his aforesaid parents, and who also died in the same event on the same date.

For more than two (2) years before their deaths, Julie Ann Gotiong and Wendell Libi were sweethearts until December, 1978 when Julie Ann broke up her relationship with Wendell after she supposedly found him to be sadistic and irresponsible. During the first and second weeks of January, 1979, Wendell kept pestering Julie Ann with demands for reconciliation but the latter persisted in her refusal, prompting the former to resort to threats against her. In order to avoid him, Julie Ann stayed in the house of her best friend, Malou Alfonso, at the corner of Maria Cristina and Juana Osmeña Streets, Cebu City, from January 7 to 13, 1978.

On January 14, 1979, Julie Ann and Wendell died, each from a single gunshot wound inflicted with the same

firearm, a Smith and Wesson revolver licensed in the name of petitioner Cresencio Libi, which was recovered from the scene of the crime inside the residence of private respondents at the corner of General Maxilom and D. Jakosalem streets of the same city.

Due to the absence of an eyewitness account of the circumstances surrounding the death of both minors, their parents, who are the contending parties herein, posited their respective theories drawn from their interpretation of circumstantial evidence, available reports, documents and evidence of physical facts.

Private respondents, bereaved over the death of their daughter, submitted that Wendell caused her death by shooting her with the aforesaid firearm and, thereafter, turning the gun on himself to commit suicide. On the other hand, petitioners, puzzled and likewise distressed over the death of their son, rejected the imputation and contended that an unknown third party, whom Wendell may have displeased or antagonized by reason of his work as a narcotics informer of the Constabulary Anti-Narcotics Unit (CANU), must have caused Wendell's death and then shot Julie Ann to eliminate any witness and thereby avoid identification.

As a result of the tragedy, the parents of Julie Ann filed Civil Case No. R-17774 in the then Court of First Instance of Cebu against the parents of Wendell to recover damages arising from the latter's vicarious liability under Article 2180 of the Civil Code. After trial, the court below rendered judgment on October 20, 1980 as follows:

"WHEREFORE, premises duly considered, judgment is hereby rendered dismissing plaintiffs' complaint for insufficiency of the evidence. Defendants' counterclaim is likewise denied for lack of sufficient merit."[2]

On appeal to respondent court, said judgment of the lower court dismissing the complaint of therein plaintiffs-appellants was set aside and another judgment was rendered against defendants-appellees who, as petitioners in the present appeal by certiorari, now submit for resolution the following issues in this case:

1. Whether or not respondent court correctly reversed the trial court in accordance with established decisional laws; and
2. Whether or not Article 2180 of the Civil Code was correctly interpreted by respondent court to make petitioners liable for vicarious liability.[3]

In the proceedings before the trial court, Dr. Jesus P. Cerna, Police Medico-Legal Officer of Cebu, submitted his findings and opinions on some postulates for determining whether or not the gunshot wound was inflicted on Wendell Libi by his own suicidal act. However, undue emphasis was placed by the lower court on the absence of gunpowder or tattooing around the wound at the point of entry of the bullet. It should be emphasized, however, that this is not the only circumstance to be taken into account in the determination of whether it was suicide or not.

It is true that said witness declared that he found no evidence of contact or close-contact of an explosive discharge in the entrance wound. However, as pointed out by private respondents, the body of deceased Wendell Libi must have been washed at the funeral parlor, considering the hasty interment thereof a little after eight (8) hours from the occurrence wherein he died. Dr. Cerna himself could not categorically state that the body of Wendell Libi was left untouched at the funeral parlor before he was able to conduct his autopsy. It will also be noted that Dr. Cerna was negligent in not conducting a paraffin test on Wendell Libi, hence possible evidence of gunpowder residue on Wendell's hands was forever lost when Wendell was hastily buried.

More specifically, Dr. Cerna testified that he conducted an autopsy on the body of Wendell Libi about eight (8) hours after the incident or, to be exact, eight (8) hours and twenty (20) minutes based on the record of death; that when he arrived at the Cosmopolitan Funeral Homes, the body of the deceased was already on the autopsy table

and in the stage of rigor mortis; and that said body was not washed, but it was dried.[4] However, on redirect examination, he admitted that during the 8-hour interval, he never saw the body nor did he see whether said body was wiped or washed in the area of the wound on the head which he examined because the deceased was inside the morgue.[5] In fact, on cross-examination, he had earlier admitted that as far as the entrance of the wound, the trajectory of the bullet and the exit of the wound are concerned, it is possible that Wendell Libi shot himself.[6]

He further testified that the muzzle of the gun was not pressed on the head of the victim and that he found no burning or singeing of the hair or extensive laceration on the gunshot wound of entrance which are general characteristics of contact or near-contact fire. On direct examination, Dr. Cerna nonetheless made these clarification:

"Q Is it not a fact that there are certain guns which are so made that there would be no black residue or tattooing that could result from these guns because they are what we call clean?

A Yes, sir. I know that there are what we call smokeless powder.

ATTY. ORTIZ:

Q Yes. So, in cases, therefore, of guns where the powder is smokeless, those indications that you said may not rule out the possibility that the gun was closer than 24 inches, is that correct?

A If the ... assuming that the gun used was ... the bullet used was a smokeless powder.

Q At any rate, doctor, from . . . disregarding those other matters that you have noticed, the singeing, etc., from the trajectory, based on the trajectory of the bullets as shown in your own sketch, is it not a fact that the gun could have been fired by the person himself, the victim himself, Wendell Libi, because it shows a point of entry a little above the right ear and point of exit a little above that, to be very fair and on your oath?

A As far as the point of entrance is concerned and as far as the trajectory of the bullet is concerned and as far as the angle or the manner of fire is concerned, it could have been fired by the victim."[7]

As shown by the evidence, there were only two used bullets[8] found at the scene of the crime, each of which were the bullets that hit Julie Ann Gotiong and Wendell Libi, respectively. Also, the sketch prepared by the Medico-Legal Division of the National Bureau of Investigation,[9] shows that there is only one gunshot wound of entrance located at the right temple of Wendell Libi. The necropsy report prepared by Dr. Cerna states:

x x x

"Gunshot wound, ENTRANCE, ovaloid, 0.5 x 0.4 cm., with contusion collar widest inferiorly by 0.2 cm., edges inverted, oriented upward, located at the head, temporal region, right, 2.8 cms. Behind and 5.5 cms. above right external auditory meatus, directed slightly forward, upward and to the left, involving skin and soft tissues, making a punch-in fracture on the temporal bone, right, penetrating cranial cavity, lacerating extensively along its course the brain tissues, fracturing parietal bone, left, and finally making an EXIT wound, irregular, 2.0 x 1.8 cms., edges (e)verted, parietal region, left, 2.0 cms. behind and 12.9 cms. above left external auditory meatus.

x x x

"Evidence of contact or close-contact fire, such as burning around the gunshot wound of entrance, gunpowder tattooing (sic), smudging, singeing of hair, extensive laceration or bursting of the gunshot wound of entrance, or separation of the skin from the underlying tissue are absent."[10]

On cross-examination, Dr. Cerna demonstrated his theory which was made of record, thus:

"Q Now, will you please use yourself as Wendell Libi, and following the entrance of the wound, the trajectory

of the bullet and the exit of the wound, and measuring yourself 24 inches, will you please indicate to the Honorable Court how would it have been possible for Wendell Libi to kill himself? Will you please indicate the 24 inches?

WITNESS:

A Actually, sir, the 24 inches is approximately one arm's length . . .

ATTY. SENINING:

I would like to make of record that the witness has demonstrated by extending his right arm almost straight towards his head."[11]

Private respondents assail the fact that the trial court gave credence to the testimonies of defendants' witnesses Lydia Ang and James Enrique Tan, the first being a resident of an apartment across the street from the Gotiongs and the second, a resident of the house adjacent to the Gotiong residence, who declared having seen a "shadow" of a person at the gate of the Gotiong house after hearing shots therefrom.

On cross-examination, Lydia Ang testified that the apartment where she was staying faces the gas station; that it is the second apartment; that from her window she can see directly the gate of the Gotiongs; and, that there is a firewall between her apartment and the gas station.[12] After seeing a man jump from the gate of the Gotiongs to the rooftop of the Tans, she called the police station but the telephone lines were busy. Later on, she talked with James Enrique Tan and told him that she saw a man leap from the gate towards his rooftop.[13]

However, James Enrique Tan testified that he saw a "shadow" on top of the gate of the Gotiongs, but denied having talked with anyone regarding what he saw. He explained that he lives in a duplex house with a garden in front of it; that his house is next to Felipe Gotiong's house; and he further gave the following answers to these questions:

"ATTY. ORTIZ: (TO WITNESS).

Q What is the height of the wall of the Gotiong's in relation to your house?

WITNESS:

A It is about 8 feet.

ATTY. ORTIZ: (TO WITNESS)

Q And where were you looking from?

WITNESS:

A From upstairs in my living room.

ATTY. ORTIZ (TO WITNESS)

Q From your living room window, is that correct?

WITNESS:

A Yes, but not very clear because the wall is high."[14]

Analyzing the foregoing testimonies, we agree with respondent court that the same do not inspire credence as to the reliability and accuracy of the witnesses' observations, since the visual perceptions of both were obstructed by high walls in their respective houses in relation to the house of herein private respondents. On the other hand,

witness Manolo Alfonso, testifying on rebuttal, attested without contradiction that he and his sister, Malou Alfonso, were waiting for Julie Ann Gotiong when they heard her scream; that when Manolo climbed the fence to see what was going on inside the Gotiong house, he heard the first shot; and, not more than five (5) seconds later, he heard another shot. Consequently, he went down from the fence and drove to the police station to report the incident.[15] Manolo's direct and candid testimony establishes and explains the fact that it was he whom Lydia Ang and James Enrique Tan saw as the "shadow" of a man at the gate of the Gotiong house.

We have perforce to reject petitioners' effete and unsubstantiated pretension that it was another man who shot Wendell and Julie Ann. It is significant that the Libi family did not even point to or present any suspect in the crime nor did they file any case against any alleged "John Doe." Nor can we sustain the trial court's dubious theory that Wendell Libi did not die by his own hand because of the overwhelming evidence -- testimonial, documentary and pictorial -- the confluence of which point to Wendell as the assailant of Julie Ann, his motive being revenge for her rejection of his persistent pleas for a reconciliation.

Petitioners' defense that they had exercised the due diligence of a good father of a family, hence they should not be civilly liable for the crime committed by their minor son, is not borne out by the evidence on record either.

Petitioner Amelita Yap Libi, mother of Wendell, testified that her husband, Cresencio Libi, owns a gun which he kept in a safety deposit box inside a drawer in their bedroom. Each of these petitioners holds a key to the safety deposit box and Amelita's key is always in her bag, all of which facts were known to Wendell. They have never been their son Wendell taking or using the gun. She admitted, however, that on that fateful night the gun was no longer in the safety deposit box.[16] We, accordingly, cannot but entertain serious doubts that petitioner spouses had really been exercising the diligence of a good father of a family by safely locking the fatal gun away. Wendell could not have gotten hold thereof unless one of the keys to the safety deposit box was negligently left lying around or he had free access to the bag of his mother where the other key was.

The diligence of a good father of a family required by law in a parent and child relationship consists, to a large extent, of the instruction and supervision of the child. Petitioners were gravely remiss in their duties as parents in not diligently supervising the activities of their son, despite his minority and immaturity, so much so that it was only at the time of Wendell's death that they allegedly discovered that he was a CANU agent and that Cresencio's gun was missing from the safety deposit box. Both parents were sadly wanting in their duty and responsibility in monitoring and knowing the activities of their children who, for all they know, may be engaged in dangerous work such as being drug informers,[17] or even drug users. Neither was a plausible explanation given for the photograph of Wendell, with a handwritten dedication to Julie Ann at the back thereof,[18] holding uptight what clearly appears as a revolver and on how or why he was in possession of that firearm.

In setting aside the judgment of the court a quo and holding petitioners civilly liable, as explained at the start of this opinion, respondent court waved aside the protestations of diligence on the part of petitioners and had this to say:

"x x x It is still the duty of parents to know the activity of their children who may be engaged in this dangerous activity involving the menace of drugs. Had the defendants-appellees been diligent in supervising the activities of their son, Wendell, and in keeping said gun from his reach, they could have prevented Wendell from killing, Julie Ann Gotiong. Therefore, appellants are liable under Article 2180 of the Civil Code which provides:

'The father, and in case of his death or incapacity, the mother, are responsible for the damages caused by their minor children who live in their company.'

"Having been grossly negligent in preventing Wendell Libi from having access to said gun which was allegedly kept in a safety deposit box, defendants-appellees are subsidiarily liable for the natural consequence

of the criminal act of said minor who was living in their company. This various liability herein defendants-appellees has been reiterated by the Supreme Court in many cases, prominent of which is the case of *Fuellas vs. Cadano, et. al.* (L-14409, Oct. 31, 1961, 3 SCRA 361-367), which held that:

'The subsidiary liability of parents for damages caused by their minor children imposed by Article 2180 of the New Civil Code covers obligations arising from both quasi-delicts and criminal offenses.'

'The subsidiary liability of parent's arising from the criminal acts of their minor children who acted with discernment is determined under the provisions of Article 2180, N.C.C. and under Article 101 of the Revised Penal Code, because to hold that the former only covers obligations which arise from quasi-delicts and not obligations which arise from criminal offenses, would result in the absurdity that while for an act where mere negligence intervenes the father or mother may stand subsidiarily liable for the damages caused by his or her son, no liability would attach if the damage is caused with criminal intent.' (3 SCRA 361-362).

"x x x In the instant case, minor son of herein defendants-appellees, Wendell Libi somehow got hold of the key to the drawer where said gun was kept under lock without defendant-spouses ever knowing that said gun had been missing from that safety box since 1978 when Wendell Libi ha(d) a picture taken wherein he proudly displayed said gun and dedicated this picture to his sweetheart, Julie Ann Gotiong; also since then, Wendell Libi was said to have kept said gun in his car, in keeping up with his supposed role of a CANU agent. x x x."

x x x

"Based on the foregoing discussions of the assigned errors, this Court holds that the lower court was not correct in dismissing herein plaintiffs-appellants' complaint because as preponderantly shown by evidence, defendants-appellees utterly failed to exercise all the diligence of a good father of the family in preventing their minor son from committing this crime by means of the gun of defendants-appellees which was freely accessible to Wendell Libi for they have not regularly checked whether said gun was still under lock, but learned that it was missing from the safety deposit box only after the crime had been committed." (Emphases ours.)(19]

We agree with the conclusion of respondent court that petitioners should be held liable for the civil liability based on what appears from all indications was a crime committed by their minor son. We take this opportunity, however, to digress and discuss its ratiocination therefor on jurisprudential dicta which we feel require clarification.

In imposing sanctions for the so-called, vicarious liability of petitioners, respondent court cites *Fuellas vs. Cadano, et al.*[20] which supposedly holds that "(t)he subsidiary liability of parents for damages caused by their minor children imposed by Article 2180 of the New Civil Code covers obligations arising from both quasi-delicts and criminal offenses," followed by an extended quotation ostensibly from the same case explaining why under Article 2180 of the Civil Code and Article 101 of the Revised Penal Code parents should assume subsidiary liability for damages caused by their minor children. The quoted passages are set out two paragraphs back, with pertinent underscoring for purposes of the discussion hereunder.

Now, we do not have any objection to the doctrinal rule holding the parents liable, but the categorization of their liability as being subsidiary, and not primary, in nature requires a hard second look considering previous decisions of this court on the matter which warrant comparative analyses. Our concern stems from our readings that if the liability of the parents for crimes or quasi-delicts of their minor children is subsidiary, then the parents can neither invoke nor be absolved of civil liability on the defense that they acted with the diligence of a good father of a family to prevent damages. On the other hand, if such liability imputed to the parents is considered direct and primary, that diligence would constitute a valid and substantial defense.

We believe that the civil liability of parents for quasi-delicts of their minor children, as contemplated in Article 2180 of the Civil Code, is primary and not subsidiary. In fact, if we apply Article 2194 of said code which provides for solidary liability of joint tortfeasors, the persons responsible for the act or omission, in this case the minor and the father and, in case of his death or incapacity, the mother, are solidarily liable. Accordingly, such parental liability is primary and not subsidiary, hence the last paragraph of Article 2180 provides that "(t)he responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage."

We are also persuaded that the liability of the parents for felonies committed by their minor children is likewise primary, not subsidiary. Article 101 of the Revised Penal Code provides:

"Art. 101. Rules regarding civil liability in certain cases. ?

x x x

First. In cases of subdivisions x x x 2, and 3 of Article 12, the civil liability for acts committed by x x x a person under nine years of age, or by one over nine but under fifteen years of age, who has acted without discernment, shall devolve upon those having such person under their legal authority or control, unless it appears that there was no fault or negligence on their part." (Emphases supplied.)(21]

Accordingly, just like the rule in Article 2180 of the Civil Code, under the foregoing provision the civil liability of the parents for crimes committed by their minor children is likewise direct and primary, and also subject to the defense of lack of fault or negligence on their part, that is, the exercise of the diligence of a good father of a family.

That in both quasi-delicts and crimes the parents primarily respond for such damages is buttressed by the corresponding provisions in both codes that the minor transgressor shall be answerable or shall respond with his own property only in the absence or in case of insolvency of the former. Thus, for civil liability ex quasi delicto of minors, Article 2182 of the Civil Code states that "(i)f the minor causing damage has no parents or guardian, the minor x x x shall be answerable with his own property in an action against him where a guardian ad litem shall be appointed." For civil liability ex delicto of minors, an equivalent provision is found in the third paragraph of Article 101 of the Revised Penal Code, to wit:

"Should there be no person having such x x x minor under his authority, legal guardianship or control, or if such person be insolvent, said x x x minor shall respond with (his) own property, excepting property exempt from execution, in accordance with civil law."

The civil liability of parents for felonies committed by their minor children contemplated in the aforesaid rule in Article 101 of the Revised Penal Code in relation to Article 2180 of the Civil Code has, aside from the aforesaid case of *Fueillas*, been the subject of a number of cases adjudicated by this Court, viz.: *Exconde vs. Capuno*, et al.,[22] *Araneta vs. Arreglado*,[23] *Salen, et al. vs. Balce*,[24] *Paleyan, etc., et al. vs. Bangkili, et al.*,[25] and *Elcano, et al. vs. Hill, et al.*[26] Parenthetically, the aforesaid cases were basically on the issue of the civil liability of parents for crimes committed by their minor children over 9 but under 15 years of age, who acted with discernment, and also of minors 15 years of age or over, since these situations are not covered by Article 101, Revised Penal Code. In both instances, this Court held that the issue of parental civil liability should be resolved in accordance with the provisions of Article 2180 of the Civil Code for the reasons well expressed in *Salen* and adopted in the cases hereinbefore enumerated that to hold that the civil liability under Article 2180 would apply only to quasi-delicts and not to criminal offenses would result in the absurdity that in an act involving mere negligence the parents would be liable but not where the damage is caused with criminal intent. In said cases, however, there are unfortunate variances resulting in a regrettable inconsistency in the Court's determination of

whether the liability of the parents, in cases involving either crimes or quasi-delicts of their minor children, is primary or subsidiary.

In *Exconde*, where the 15-year old minor was convicted of double homicide through reckless imprudence, in a separate civil action arising from the crime the minor and his father were held jointly and severally liable for failure of the latter to prove the diligence Of a good father of a family. The same liability in solidum and, therefore, primary liability was imposed in a separate civil action in *Araneta* on the parents and their 14-year old son who was found guilty of frustrated homicide, but on the authority of Article 2194 of the Civil Code providing for solidary responsibility of two or more persons who are liable for a quasi-delict.

However, in *Salen*, the father was declared subsidiarily liable for damages arising from the conviction of his son, who was over 15 but less than 18 years of age, by applying Article 2180 but, this time, disregarding Article 2194 of the Civil Code. In the present case, as already explained, the petitioners herein were also held liable but supposedly in line with *Fuellas* which purportedly declared the parents subsidiarily liable for the civil liability for serious physical injuries committed by their 13-year old son. On the other hand, in *Paleyan*, the mother and her 19-year old son were adjudged solidarity liable for damages arising from his conviction for homicide by the application of Article 2180 of the Civil Code since this is likewise not covered by Article 101 of the Revised Penal Code. Finally, in *Elcano*, although the son was acquitted in a homicide charge due to "lack of intent, coupled with mistake," it was ruled that while under Article 2180 of the Civil Code there should be solidary liability for damages, since the son, "although married, was living with his father and getting subsistence from him at the time of the occurrence," but "is now of age, as a matter of equity" the father was only held subsidiarily liable.

It bears stressing, however, that the Revised Penal Code provides for subsidiary liability only for persons causing damages under the compulsion of irresistible force or under the impulse of an uncontrollable fear;[27] innkeepers, tavernkeepers and proprietors of establishments;[28] employers, teachers, persons and corporations engaged in industry;[29] and principals, accomplices and accessories for the unpaid civil liability of their co-accused in the other classes.[30]

Also, coming back to respondent court's reliance on *Fuellas* in its decision in the present case, it is not exactly accurate to say that *Fuellas* provided for subsidiary liability of the parents therein. A careful scrutiny shows that what respondent court quoted verbatim in its decision now on appeal in the present case, and which it attributed to *Fuellas*, was the syllabus on the law report of said case which spoke of "subsidiary" liability. However, such categorization does not specifically appear in the text of the decision in *Fuellas*. In fact, after reviewing therein the cases of *Exconde*, *Araneta* and *Salen* and the discussions in said cases of Article 101 of the Revised Penal Code in relation to Article 2180 of the Civil Code, this Court concluded its decision in this wise.

"Moreover, the case at bar was decided by the Court of Appeals on the basis of evidence submitted therein by both parties, independent of the criminal case. And responsibility for fault or negligence under Article 2176 upon which the present action was instituted, is entirely separate and distinct from the civil liability arising from fault or negligence under the Penal Code (Art. 2177), and having in mind the reasons behind the law as heretofore stated, any discussion as to the minor's criminal responsibility is of no moment."

Under the foregoing considerations, therefore, we hereby rule that the parents are and should be held primarily liable for the civil liability arising from criminal offenses committed by their minor children under their legal authority or control, or who live in their company, unless it is proven that the former acted with the diligence of a good father of a family to prevent such damages. That primary liability is premised on the provisions of Article 101 of the Revised Penal Code with respect to damages *ex delicto* caused by their children 9 years of age or under, or over 9 but under 15 years of age who acted without discernment; and, with regard to their children over

9 but under 15 years of age who acted with discernment, or 15 years or over but under 21 years of age, such primary liability shall be imposed pursuant to Article 2180 of the Civil Code.[31]

Under said Article 2180, the enforcement of such liability shall be effected against the father and, in case of his death or incapacity, the mother. This was amplified by the Child and Youth Welfare Code which provides that the same shall devolve upon the father and, in case of his death or incapacity, upon the mother or, in case of her death or incapacity, upon the guardian, but the liability may also be voluntarily assumed by a relative or family friend of the youthful offender.[32] However, under the Family Code, this civil liability is now, without such alternative qualification, the responsibility of the parents and those who exercise parental authority over the minor offender.[33] For civil liability arising from quasi-delicts committed by minors, the same rules shall apply in accordance with Articles 2180 and 2182 of the Civil Code, as so modified.

In the case at bar, whether the death of the hapless Julie Ann Gotiong was caused by a felony or a quasi-delict committed by Wendell Libi, respondent court did not err in holding petitioners liable for damages arising therefrom. Subject to the preceding modifications of the premises relied upon by it therefor and on the bases of the legal imperatives herein explained, we conjoin in its findings that said petitioners failed to duly exercise the requisite diligentissimi patris familias to prevent such damages.

ACCORDINGLY, the instant petition is DENIED and the assailed judgment of respondent Court of Appeals is hereby AFFIRMED, with costs against petitioners.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Padilla, Bidin, Griño-Aquino, Medialdea, Romero, Nocon, and Bellosillo, JJ., concur.

Feliciano, J., on leave.

Davide, Jr., and Campos, Jr., JJ., no part.

Melo, J., no part, on leave.

* This petitioner is indicated or referred to in some pleadings as "Cresencio alias William Libi."

[1] Penned by Justice Bienvenido C. Ejercito, with the concurrence of Justices Jorge R. Coquia, Mariano A. Zosa and Florelia Castro-Bartolome; Rollo, 17-34.

[2] Per Judge Mario D. Ortiz; Record on Appeal, AC-G.R. CV No. 69060, 29.

[3] Rollo, 59.

[4] TSN, November 9, 1979, 7-8.

[5] Ibid., id., 19-20.

[6] Ibid., id., 10.

[7] Ibid., id., 16-17.

[8] Exh. EB-1 and EB-2.

[9] Exh. X; Folder of Exhibits, Civil Case No. R-17774, 38.

[10] EXh, W; ibid., id., 37.

[11] TSN, November 9, 1979, 22.

[12] TSN, December 27, 1979, 56-61.

[13] Ibid., id., 62-68.

[14] Ibid., id., 82-83.

[15] TSN, June 4, 1980, 4-6, 8-15.

[16] TSN, April 11, 1980, 22-28; April 28, 1980, 6-7.

[17] TSN, April 11, 1980 27-28.

[18] Exh. J and J-1, Folder of Exhibits, Civil Case No. R-17774, 29.

[19] Rollo, 31-33.

[20] 3 SCRA 361 (1961).

[21] Par. 2 of Art. 12 refers to "a person under nine years of age," which should more accurately read "nine years of age or under" since Par. 3 thereof speaks of one "over nine x x x." See also the complementary provisions of Art. 201, P.D. No. 603 and Art. 221, E.O. No. 209, as amended, *infra*, Fn 32 and 33.

[22] 101 Phil. 843 (1957).

[23] 104 Phil. 529 (1958).

[24] 107 Phil. 748 (1960).

[25] 40 SCRA 132 (1971).

[26] 77 SCRA 98 (1977).

[27] Third rule, Art. 101, in relation to pars. 5 and 6 of Art. 12.

[28] Art. 102.

[29] Art. 103.

[30] Art. 110.

[31] While R.A. No 6809 amended Art. 234 of the Family Code to provide that majority commences at the age of 18 years, Art. 236 thereof, as likewise amended, states that "(n)othing in this Code shall be construed to derogate from the duty or responsibility of parents and guardians for children and wards below twenty-one years of age mentioned in the second and third paragraphs of Article 2180 of the Civil Code."

[32] Art. 201, P.D. No. 603.

[33] Art. 221 of E.O. No. 209, as amended by E.O. No 227, provides: "Parents and other persons exercising parental authority shall be civilly liable for the injuries and damages caused by the act or omissions of their unemancipated children living in their company and under their parental authority subject to the appropriate defenses provided by law."

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