

**LUCIA EUROPA (MOTHER OF DECEASED LUCRECIA EUROPA),
PETITIONER, VS. HUNTER GARMENTS MFG. (PHIL.) INC. AND
INTERMEDIATE APPELLATE COURT, RESPONDENTS.**

G.R. No. 72827. July 18, 1989

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for certiorari to annul the Court of Appeals decision which set aside the order of default and judgment by default rendered by the Court of First Instance of Rizal Branch XIII in Civil Case No. 37848 for Damages.

The facts of the case are briefly as follows:

In 1973, the petitioner's daughter, Lucrecia Europa, was employed as sample maker by the private respondent Hunter Garments Manufacturing (Philippines) Incorporated. Sometime during the course of her employment, or on March 9, 1978, Lucrecia got electrocuted by the high speed sewing machine which had been assigned to her by the private respondent.

Thus, on July 18, 1980, the petitioner filed an action for damages against private respondent based on quasi-delict. Summons, together with a copy of the complaint, was served on its production manager, Mr. Simplicio A. Garcia.

No answer to the complaint was ever filed. Thus, private respondent was declared in default and the petitioner was allowed to present evidence ex parte.

On April 8, 1981, the trial court rendered judgment, the dispositive portion of which reads:

"WHEREFORE, the plaintiff having established her cause of action, judgment is rendered against the defendant corporation ordering the latter to pay the plaintiff the following:

- a) for the death of Lucrecia, the sum of P12,000.00;
- b) for actual expenses for the wake, the funeral and burial expenses, and other miscellaneous expenses, the sum of P5,580.00;
- c) for loss of income the sum of P30,000.00;
- d) for moral damages, the sum of P10,000.00;
- e) for attorney's fees, the sum of P5,000.00;

and pay the costs." (p. 39, Rollo)

Private respondent filed a motion for reconsideration of the aforesaid decision and a motion to admit answer, alleging its failure to seasonably file an answer was due to the excusable negligence of Ms. Lilia Jimenez, the production manager's secretary, who failed to forward the summons and the copy of the complaint to the company

president, despite instructions to do so by her superior. The trial court denied both motions.

Thus, private respondent appealed to the Court of Appeals, assigning the following errors:

"The Honorable Court, a quo, erred in not ruling that defendant-appellant's failure to seasonably file its Answer was due to excusable negligence;"

"The Honorable Court, a quo, erred in declaring defendant-appellant in default and in allowing plaintiff-appellee to present her evidence ex parte despite the fact that summons had not been properly served;" and

"Assuming, arguendo, that the Honorable Court, a quo, had validly acquired jurisdiction over the person of defendant-appellant, it erred in rendering a decision which is not supported by law and the facts of the case." (p. 42, Rollo)

Finding that the trial court never acquired jurisdiction over the person of private respondent as summons was improperly served (the production manager not being the same "manager" referred to in Section 13 Rule 14 of the Revised Rules of Court for purposes of service of summons upon a domestic private corporation), the Court of Appeals set aside the default order and judgment by default and directed the trial court to conduct further proceedings for the adjudication of the case. (p. 22, Rollo)

The petitioner filed a motion for reconsideration of the aforesaid decision but the same was denied.

Hence, the instant petition for certiorari.

There is merit in this petition. Assuming arguendo that the court below originally did not acquire jurisdiction over the private respondent, the latter certainly submitted to it when private respondent filed a motion for reconsideration of the judgment by default and a motion to admit answer on the ground of excusable negligence. Therefore, the lower court's denial of both motions is binding on private respondent. (Soriano vs. Palacio, 12 SCRA 449)

Private respondent likewise appealed from the judgment by default, thus, We shall proceed to review the evidence presented and the propriety of damages awarded by the lower court.

The evidence on record discloses that on March 9, 1978, Lucrecia Europa was electrocuted by the sewing machine owned by private respondent. The autopsy conducted by Dr. Nieto M. Salvador confirmed that Lucrecia died from "shock probably secondary to electrocution" (Annex "A" of the complaint).

The facts and circumstances of the case point to the reasonableness of the damages awarded. There is an express finding of gross negligence on the part of private respondent in the judgment of the lower court, thus:

"xxx There are at least two incidents, according to De la Cruz, where high speed sewing machines of the defendant corporation were grounded. These incidents were brought to the attention of the management of the defendant corporation. Apparently, nothing was done by way of checking these grounded machines.

"At one time, Fornoza claimed that when her machine was grounded and she complained about it, she was told by the management 'to get out of there.' The defendant corporation does not employ a duly-licensed electrical engineer but only has three (3) electricians whose services clearly proved inadequate for maintaining the safety of the machines in the factory.

"There is no indication that the management had ever shown any serious concern for the safety of those operating said machines. As it was, the defendant corporation even tended to be apathetic to the plight of its employees manning the factory sewing machines. xxx

"If the machines were frequently and regularly checked or properly maintained, the death of Lucrecia by electrocution would surely not have come to pass. xxx (p. 2, Decision).

In actions based on quasi-delict as in this case, all damages for the natural and probable consequences of the act or omission complained of are recoverable. (Article 2202 of the New Civil Code)

WHEREFORE, the decision of the Court of Appeals is hereby set aside and the decision of the lower court is hereby reinstated except that the indemnity for the death itself is increased to Thirty Thousand (P30,000.00) Pesos.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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